

Fill in this information to identify the case:Debtor OTB Holding LLCUnited States Bankruptcy Court for the: Northern District of Georgia
(State)Case number 25-52415**Modified Official Form 410
Proof of Claim****12/24**

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

| | | |
|--|--|---|
| 1. Who is the current creditor? | 1538 N. Vista, LLC Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____ | |
| 2. Has this claim been acquired from someone else? | <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____ | |
| 3. Where should notices and payments to the creditor be sent? | Where should notices to the creditor be sent? 1538 N. Vista, LLC Stuart I. Grossman, Esq. LKLSG 100 S.E. 2nd Street, 36th Floor Miami, Florida 33131, United States Contact phone <u>305-403-8788</u> Contact email <u>See summary page</u> Uniform claim identifier (if you use one): _____ | Where should payments to the creditor be sent? (if different) 1538 N. Vista, LLC Sir/Madam 95 N. County Road Palm Beach, Florida 33480 Contact phone _____ Contact email <u>See summary page</u> |
| 4. Does this claim amend one already filed? | <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY | |
| 5. Do you know if anyone else has filed a proof of claim for this claim? | <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____ | |



Part 2: Give Information About the Claim as of the Date the Case Was Filed

| | |
|--|---|
| 6. Do you have any number you use to identify the debtor? | <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____ |
| 7. How much is the claim? | \$ <u>147,996.54</u> Does this amount include interest or other charges? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A). |
| 8. What is the basis of the claim? | Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. <u>Rejection damages; Lease and Assignment of Lease attached.</u> |
| 9. Is all or part of the claim secured? | <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. The claim is secured by a lien on property. Nature or property: <input type="checkbox"/> Real estate: If the claim is secured by the debtor's principle residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input checked="" type="checkbox"/> Other. Describe: <u>none</u> Basis for perfection: _____ Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.) Value of property: <u>\$ 0</u> Amount of the claim that is secured: <u>\$ 0</u> Amount of the claim that is unsecured: <u>\$ 147,996.54</u> (The sum of the secured and unsecured amount should match the amount in line 7.) Amount necessary to cure any default as of the date of the petition: <u>\$ 0</u> Annual Interest Rate (when case was filed) <u>0</u> % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable |
| 10. Is this claim based on a lease? | <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. <u>\$ 136,886.28</u> |
| 11. Is this claim subject to a right of setoff? | <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____ |



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☒ No

☐ Yes. Check all that apply:

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

Amount entitled to priority

\$ _____

☐ Up to \$3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

\$ _____

☐ Wages, salaries, or commissions (up to \$15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

\$ _____

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

\$ _____

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

\$ _____

☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

\$ _____

* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)?

☒ No

☐ Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(3) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☐ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 04/23/2025
MM / DD / YYYY

/s/Stuart I. Grossman, Esq.
Signature

Print the name of the person who is completing and signing this claim:

Name Stuart I. Grossman, Esq.
First name Middle name Last name

Title Attorney

Company LEVINE KELLOGG LEHMAN SCHNEIDER GROSSMAN LLP
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____

Contact phone _____ Email _____



Verita (KCC) ePOC Electronic Claim Filing Summary

For phone assistance: Domestic (888) 647-1744 | International (310) 751-2628

| | | |
|---|--|----------------------------------|
| Debtor: 25-52415 - OTB Holding LLC District: Northern District of Georgia, Atlanta Division | | |
| Creditor: 1538 N. Vista, LLC Stuart I. Grossman, Esq. LKLSG 100 S.E. 2nd Street 36th Floor Miami, Florida, 33131 United States Phone: 305-403-8788 Phone 2: Fax: 305-403-8789 Email: ame@lklsq.com; sig@lklsq.com; trl@lklsq.com | Has Supporting Documentation: Yes, supporting documentation successfully uploaded Related Document Statement: | |
| | Has Related Claim: No Related Claim Filed By: | |
| | Filing Party: | |
| | | |
| Disbursement/Notice Parties: 1538 N. Vista, LLC Sir/Madam 95 N. County Road Palm Beach, Florida, 33480 Phone: Phone 2: Fax: E-mail: ame@lklsq.com; sig@lklsq.com; trl@lklsq.com DISBURSEMENT ADDRESS | | |
| Other Names Used with Debtor: | Amends Claim: No Acquired Claim: No | |
| Basis of Claim: Rejection damages; Lease and Assignment of Lease attached. | Last 4 Digits: No | Uniform Claim Identifier: |
| Total Amount of Claim: 147,996.54 | Includes Interest or Charges: Yes | |
| Has Priority Claim: No | Priority Under: | |
| Has Secured Claim: Yes: 0 Amount of 503(b)(9): No Based on Lease: Yes, 136,886.28 Subject to Right of Setoff: No | Nature of Secured Amount: Other Describe: none Value of Property: 0 Annual Interest Rate: 0% Arrearage Amount: 0 Basis for Perfection: Amount Unsecured: 147,996.54 | |

Submitted By:

Stuart I. Grossman, Esq. on 23-Apr-2025 12:45:03 p.m. Pacific Time

Title:

Attorney

Company:

LEVINE KELLOGG LEHMAN SCHNEIDER GROSSMAN LLP

Fill in this information to identify the case:

Debtor 1 OTB HOLDING, LLC

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: Northern District of Georgia

Case number 25-52415

Official Form 410

Proof of Claim

04/25

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

| | | |
|--|--|---|
| 1. Who is the current creditor? | <u>1538 N. Vista, LLC</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____ | |
| 2. Has this claim been acquired from someone else? | <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____ | |
| 3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g) | Where should notices to the creditor be sent? <u>Stuart I. Grossman, Esq., LKLSG</u> Name <u>100 S.E. 2nd St., 36th Floor, Miami Tower</u> Number Street <u>Miami</u> <u>FL</u> <u>33131</u> City State ZIP Code Contact phone <u>305-403-8788</u> Contact email <u>sig@klsq.com</u> Uniform claim identifier (if you use one): _____ | Where should payments to the creditor be sent? (if different) <u>1538 N. Vista, LLC</u> Name <u>95 N. County Road</u> Number Street <u>Palm Beach</u> <u>FL</u> <u>33480</u> City State ZIP Code Contact phone _____ Contact email _____ |
| 4. Does this claim amend one already filed? | <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on ____/____/____ MM / DD / YYYY | |
| 5. Do you know if anyone else has filed a proof of claim for this claim? | <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____ | |

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? ☒ No
☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ 147,996.54 Does this amount include interest or other charges?
☐ No
☒ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.

Rejection damages; Lease & Assignment of Lease attached.

9. Is all or part of the claim secured? ☒ No
☐ Yes. The claim is secured by a lien on property.
Nature of property:
☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
☐ Motor vehicle
☐ Other. Describe: _____

Basis for perfection:
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____ %
☐ Fixed
☐ Variable

10. Is this claim based on a lease? ☐ No
☒ Yes. Amount necessary to cure any default as of the date of the petition. \$ 136,886.28

11. Is this claim subject to a right of setoff? ☒ No
☐ Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☒ No

☐ Yes. Check one:

- ☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ _____
- ☐ Up to \$3,800* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ _____
- ☐ Wages, salaries, or commissions (up to \$17,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ _____
- ☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ _____
- ☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ _____
- ☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies. \$ _____

Amount entitled to priority

* Amounts are subject to adjustment on 4/01/28 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(3) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- ☒ I am the creditor.
- ☐ I am the creditor's attorney or authorized agent.
- ☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- ☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 04/22/2024
MM / DD / YYYY

EDWARD LEEVAN

Signature

Print the name of the person who is completing and signing this claim:

| | | | |
|---------------|---|-------------|-----------|
| Name | EDWARD | JAY | LEEVAN |
| | First name | Middle name | Last name |
| Title | Manager | | |
| Company | 1538 N. Vista, LLC | | |
| | Identify the corporate servicer as the company if the authorized agent is a servicer. | | |
| Address | 95 N. County Road | | |
| | Number | Street | |
| | Palm Beach | FL | 33480 |
| | City | State | ZIP Code |
| Contact phone | | | Email |

| | |
|-----------------------------|-------------------|
| OTB Acquisition, LLC | |
| January 2025 rent | 31,381.09 |
| Janury late fee | 3,138.11 |
| January Assoc Fee | 11,110.26 |
| February 2025 rent | 31,381.09 |
| February late fee | 3,138.11 |
| February Assoc Fee | 11,110.26 |
| March 2025 rent | 31,381.09 |
| March late fee | 3,138.11 |
| March Assoc Fee | 11,110.26 |
| March Assoc Credit | -2.10 |
| April Assoc Fee | 11,110.26 |
| Balance due | 147,996.54 |

Kendall Village Assoc., LTD
2665 S Bayshore Dr
Suite 1200
Coconut Grove, FL 33133

475-12295-CU
1538 N. VISTA, LLC
12295 SW 88 Street
Coconut Grove, FL 33133

Statement

| DATE | DESCRIPTION | AMOUNT DUE | BALANCE |
|------------|-------------------------|------------|---------|
| 01/01/2025 | Common Area Maintenance | 6,280.00 | |
| 01/01/2025 | Administrative Fees | 972.78 | |
| 01/01/2025 | Insurance | 1,020.00 | |
| 01/01/2025 | Real Estate Taxes | 2,310.00 | |
| 01/01/2025 | Electric Expense | 210.00 | |
| 01/01/2025 | Sales Tax | 317.48 | |
| 02/01/2025 | Common Area Maintenance | 6,280.00 | |
| 02/01/2025 | Administrative Fees | 972.78 | |
| 02/01/2025 | Insurance | 1,020.00 | |
| 02/01/2025 | Real Estate Taxes | 2,310.00 | |
| 02/01/2025 | Electric Expense | 210.00 | |
| 02/01/2025 | Sales Tax | 317.48 | |
| 03/01/2025 | Common Area Maintenance | 6,280.00 | |
| 03/01/2025 | Administrative Fees | 972.78 | |
| 03/01/2025 | Insurance | 1,020.00 | |
| 03/01/2025 | Real Estate Taxes | 2,310.00 | |
| 03/01/2025 | Electric Expense | 210.00 | |
| 03/01/2025 | Sales Tax | 317.48 | |
| | Open Credits | (2.10) | |

CONTINUED ON THE NEXT PAGE

Total Amount Due:

\$ See the next page

Comments:

1538 N. VISTA, LLC
95 NORTH COUNTY ROAD
PALM BEACH, FL 33480

Statement Date: 04/01/2025

Total Due: \$ See the next page

Please Return This Coupon With Your Payment

Kendall Village Assoc., LTD
2665 S Bayshore Dr
Suite 1200
Coconut Grove, FL 33133

Date : 04/01/2025

Unit : 475-12295-CU

Amount Due : \$ See the next page

Bill to:
1538 N. VISTA, LLC
95 NORTH COUNTY ROAD
PALM BEACH, FL 33480

Send Remittance to :
Kendall Village Assoc., LTD
2665 S Bayshore Dr
Suite 1200
Coconut Grove, FL 33133

Kendall Village Assoc., LTD
2665 S Bayshore Dr
Suite 1200
Coconut Grove, FL 33133

475-12295-CU
1538 N. VISTA, LLC
12295 SW 88 Street
Coconut Grove, FL 33133

Statement

| DATE | DESCRIPTION | AMOUNT DUE | BALANCE |
|-------------------------------|-------------------------|------------|-----------|
| PREVIOUS MONTH ENDING BALANCE | | | 33,328.68 |
| CURRENT CHARGES | | | |
| 04/01/2025 | Common Area Maintenance | 6,280.00 | |
| 04/01/2025 | Administrative Fees | 972.78 | |
| 04/01/2025 | Insurance | 1,020.00 | |
| 04/01/2025 | Real Estate Taxes | 2,310.00 | |
| 04/01/2025 | Electric Expense | 210.00 | |
| 04/01/2025 | Sales Tax | 317.48 | |
| TOTAL CURRENT | | | 11,110.26 |

Total Amount Due:

\$ 44,438.94

Comments:

*****PLEASE NOTE CHARGES HAVE BEEN UPDATED AS OF 1/1/25*****

For ACH Payment, please contact Erin Rodriguez at erodriguez@berkowitzdev.com or via telephone at (305) 854-2800.

1538 N. VISTA, LLC
95 NORTH COUNTY ROAD
PALM BEACH, FL 33480

Statement Date: 04/01/2025

Total Due: \$ 44,438.94

Please Return This Coupon With Your Payment

Kendall Village Assoc., LTD
2665 S Bayshore Dr
Suite 1200
Coconut Grove, FL 33133

Date : 04/01/2025

Unit : 475-12295-CU

Amount Due : \$ 44,438.94

Bill to:
1538 N. VISTA, LLC
95 NORTH COUNTY ROAD
PALM BEACH, FL 33480

Send Remittance to :
Kendall Village Assoc., LTD
2665 S Bayshore Dr
Suite 1200
Coconut Grove, FL 33133

ASSIGNMENT AND ASSUMPTION OF LEASE AND CONSENT OF LANDLORD

THIS ASSIGNMENT AND ASSUMPTION OF LEASE AND CONSENT OF LANDLORD (this "Agreement") is made and entered into this 16th day of JULY, 2012 (the "Effective Date"), among BOR KENDALL, LLC, a Florida limited liability company ("Assignor"), MASTER RESTAURANT DEVELOPERS, LLC, a Florida limited liability company, and MASTER CONCESSIONAIRE, LLC, a Florida limited liability company (together, the "Lease Guarantors"), OTB ACQUISITION, LLC, a Delaware limited liability company ("Assignee") and 1538 N. VISTA, LLC, a California limited liability company ("Landlord").

BACKGROUND:

A. Assignor, as tenant, and Landlord entered into that certain Lease (the "Lease") dated December 12, 2007, covering an approximately 7,969 square feet restaurant building, with an address of 12295 S.W. 88th Street, Miami, Florida 33186 (the "Building"), as evidenced by that Memorandum of Lease dated as of December 14, 2007, recorded December 27, 2007 in the Official Records of Miami-Dade County, Florida, in Book 26131, Page 0784, et. seq., as corrected by the Corrective Memorandum of Lease filed March 17, 2008, in the Official Records of Miami-Dade County Florida, in Book 2672, Page 3207, et. seq. (together, the "Memorandum of Lease"). A copy of the Memorandum of Lease are attached hereto as Exhibit C.

B. Lease Guarantors executed and delivered that "Guaranty" (herein so called) dated December 2007, for the benefit of Landlord. A copy of the Guaranty is attached as Exhibit B.

C. Assignor desires to assign, and Assignee desires to assume, the rights, duties and liabilities of tenant under the Lease.

D. Lease Guarantors acknowledge and agree that the Guaranty shall remain in full force and effect, and nothing herein shall be construed to the contrary.

E. The Parties acknowledge and agree that nothing herein shall be construed to relieve Assignor of any rights, duties, obligations and liabilities under the Lease.

F. Landlord consents to the assignment of the Lease by Assignor to Assignee.

G. Assignee warrants and represents that OTB Acquisition, LLC is the principal operating entity of the On The Border brand within which all of the company's assets and debts are held, and to which all of the future earnings of the business inure. OTB Acquisition, LLC is also Tenant in virtually all of the On The Border brand's existing corporate leases.

AGREEMENT

NOW, THEREFORE, in consideration of the receipt of Ten Dollars (\$10.00), the assumptions by Assignee hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Assignment and Assumption of Lease.

(a) Assignor hereby assigns to Assignee, its successors and assigns all of Assignor's right, title and interest in and to the Lease.

(b) Assignee hereby assumes all rights, duties, obligations and liabilities required by Assignor under the Lease accruing from and after the date hereof (and Assignor shall not bear any such duties, obligations or liabilities), and shall comply with all terms and conditions of the Lease from and after the date hereof.

2. Consent by Landlord. Pursuant to Article VI of the Lease, Landlord hereby consents to the assignment of the Lease by Assignor to Assignee and hereby recognizes Assignee as the "Tenant" under the Lease effective as of the Effective Date. However, Assignor is not relieved of any rights, duties, obligations and liabilities under the Lease.

3. Indemnification

(a) Assignor and Lease Guarantors hereby agree to indemnify, defend and hold Assignee, and its officers and directors and their respective affiliates, harmless from and against any and all claims, liabilities, loss, cost and/or expense, including, without limitation, attorneys' fees and costs, incurred, suffered or to which such party is subject as a result of any liability or obligation of Assignor and Lease Guarantors arising out of or pertaining to the Lease or Guaranty on and before the Effective Date. Assignor and Lease Guarantors shall further reimburse Assignee for all costs and expenses, including, without limitation, reasonable attorneys' fees and costs, incurred by Assignee as a result of, related to or arising out of the indemnification above.

(b) Assignee hereby agrees to indemnify, defend and hold Assignor and Lease Guarantors and their respective officers and directors and their respective affiliates, harmless from and against any and all claims, liabilities, loss, cost and/or expense, including, without limitation, attorneys' fees and costs, incurred, suffered or to which such party is subject as a result of any liability or obligation of Assignor and Lease Guarantors arising out of or pertaining to the Lease and Guaranty after the Effective Date. Assignee shall further reimburse Assignor and Lease Guarantors for all costs and expenses, including, without limitation, reasonable attorneys' fees and costs, incurred by Assignor and Lease Guarantors as a result of, related to or arising out of the indemnification above.

4. Representation of Assignor and Lease Guarantors Assignor and Lease Guarantors represent and warrant that true, correct and complete copies of the Lease and Guaranty are attached hereto as Exhibits A and B. Assignor and Lease Guarantors acknowledge that the Memorandum of Lease incorrectly references the date of the Lease as December 14, 2007 and the correct date of the Lease is December 12, 2007.

5. Estoppel of Landlord. Landlord represents and warrants the following:

(a) Landlord is the sole holder of the interests of the "Landlord" under the Lease and Guaranty.

(b) A true, correct and complete copy of the Lease and Guaranty are attached hereto as Exhibits A and B. Landlord re-confirms the Recitals set forth on Page 1 of the Lease. Article I of the Lease delineates the Term of the Lease. No option to renew the term has been exercised as of the Effective Date.

(c) Landlord currently holds no security deposit in connection with the Lease.

(d) All rent, additional rent and other amounts payable under the Lease are paid through July 2012.

(e) No event of default is outstanding under the Lease or Guaranty as of the date hereof and, upon information and belief, Landlord is not currently aware of an action/inaction by Tenant that would give rise to a default under the Lease or Guaranty. Upon information and belief, all Tenant Work and Additions under the Lease have been completed in full compliance with the Lease.

(f) Neither Landlord nor, to Landlord's knowledge, Assignor or Lease Guarantors have commenced any action or have sent any notice to Landlord for the purpose of terminating the Lease.

(g) Landlord is not in default under the mortgage held by Goldman Sachs Bank USA encumbering the Building. There is no other mortgage lien encumbering the Building.

(h) Upon information and belief, Landlord has received no written notice from any governmental agency alleging a violation of any statute, ordinance, regulation or code with respect to the Building, which violation has not been cured.

(i) Upon information and belief, there are no pending nor, to Landlord's knowledge, threatened matters of litigation, administrative action or examination, claim or demand relating to the Building or Landlord's interest in the Building.

(j) There is no pending nor, to Landlord's knowledge, contemplated or threatened eminent domain, condemnation or other governmental taking or proceeding relating to the Building or any part thereof.

(k) Landlord acknowledges that the correct date of the Lease is December 12, 2007.

6. Addresses. Landlord acknowledges that Assignee's address for all purposes is as follows:

OTB Acquisition, LLC
2201 West Royal Lane, Suite 240
Irving, Texas 75063
Attention: Devin Keil

Landlord confirms its address for purposes of notice under the Lease and payment of rent is:

95 N. County Road
Palm Beach, FL 33480

7. Miscellaneous.

(a) This Agreement shall inure to the benefit of, and be binding upon, the successors, executors, administrators, legal representatives and assigns of the parties

hereto.

(b) Any future amendment, termination or modification of the Lease does not require the joinder of Assignor or Lease Guarantors, however, nothing herein shall be construed as a release of Assignor by Landlord under the Lease or Lease Guarantors by Landlord under the Guaranty, which shall remain in full force and effect

(c) The obligations of Assignor and Lease Guarantors under this Agreement are joint and several.

(d) This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which collectively shall constitute one and the same instrument. The exchange of copies of this Agreement and of signature pages by electronic mail or facsimile transmission shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes.

[Signature pages follow.]

EXECUTED effective as of the date first above written.

ASSIGNOR:

BOR KENDALL, LLC,
a Florida limited liability company

By: _____
Name: Carlos Sigmund
Title: Member

LEASE GUARANTORS:

MASTER RESTAURANT DEVELOPERS, LLC,
a Florida limited liability company

By: _____
Name: Carlos Sigmund
Title: Member

MASTER CONCESSIONAIRE, LLC,
a Florida limited liability company

By: _____
Name: Carlos Sigmund
Title: Member

[Signatures continue on following page]

EXECUTED effective as of the date first above written.

ASSIGNOR:

BOR KENDALL, LLC,
a Florida limited liability company

By: _____
Name: _____
Title: _____

LEASE GUARANTORS:

MASTER RESTAURANT DEVELOPERS, LLC,
a Florida limited liability company

By: _____
Name: _____
Title: _____

MASTER CONCESSIONAIRE, LLC,
a Florida limited liability company

By: 
Name: JOSE ANDERSON
Title: MANAGER

[Signatures continue on following page]

ASSIGNEE:

OTB ACQUISITION, LLC,
a Delaware limited liability company

By: R. J. Keil
Name: Dustin L. Keil
Title: SVP of Development

[Signatures continue on following page]

LANDLORD:

1538 N. VISTA, LLC,
a California limited liability company

By: Charles Hamett
Name: Charles Hamett
Title: MANAGER

EXHIBIT A

LEASE

(see attached)

THIS LEASE ("Lease") is made as of the 17th day of December, 2007 ("Lease Date"), by and between 1538 N. Vista, LLC, a California limited liability company ("Landlord"), 8491 West Sunset Boulevard, #497, West Hollywood, CA 90069, and BOR Kendall, LLC, a Florida limited liability company ("Tenant"), P. O. Box 997180, Miami, Florida 33299-7180.

RECITALS

A. Landlord is the owner of the property located at 12295 S.W. 88th Street, Miami, Florida, the legal description of which is attached hereto as *Exhibit "A"*.

B. Landlord desires to lease to Tenant, and Tenant desires to lease from Landlord, the Premises on which Tenant has constructed and operates a restaurant building of approximately 7969 square feet in accordance with, and subject to, the terms and conditions of this Lease.

IN CONSIDERATION of the foregoing Recitals and the mutual covenants and agreements of the parties herein, the parties agree as follows:

ARTICLE I DEMISE, TERM

Section 1.1 Demise: Premises: Term:

(a) As of the "Effective Date", Landlord leases and demises to Tenant, and Tenant leases from Landlord the "Premises" consisting of the land described in *Exhibit "A"* together with the Existing Improvements (defined below). The Premises, together with the Existing Improvements shall hereinafter be referred to as the "Leased Premises." The right of Tenant in and to the Leased Premises is hereafter referred to as the "Leasehold Estate." The right of Landlord in and to the Leased Premises, including the reversionary rights of Landlord in and to the Improvements, is hereafter referred to as the "Landlord Estate."

(b) The Lease shall commence on the Lease Date. The "Initial Term" of the Lease shall expire on 11:59 pm of the last day of the twentieth (20th) Lease Year (defined below). Tenant shall have the right to renew the Initial Term subject to the Tenant's satisfaction of the terms and conditions of Article XV of this Lease. As used herein, "Term" shall refer to the Initial "Term" as the same may be extended in accordance with this Lease.

ARTICLE II ANNUAL FIXED RENT/SECURITY DEPOSIT/ RENT PAYMENT/LATE CHARGES

Section 2.1 Annual Fixed Rent:

(a) Commencing as of the Rent Commencement Date (as hereinafter defined), Tenant shall pay to Landlord, at the business address of Landlord specified in Section 2.3 below, or at such other address as Landlord may designate from time to time by written notice to Tenant, the Annual Fixed Rent set forth below, plus all applicable sales and/or use tax thereon, payable to Landlord in equal monthly payments on the first (1st) day of each month in advance throughout the Term without demand or set-off. If the Rent Commencement Date does not fall on the first day of a calendar month, Tenant shall pay its first installment of Annual Fixed Rent on the Rent Commencement Date in an amount prorated based on the number of days from the Rent Commencement Date to the first day of the next calendar month.

(b) Annual Fixed Rent and all other charges due under this Lease shall commence on the "Rent Commencement Date", which is December 14, 2007.

(c) "Lease Year" means each twelve (12) month period beginning on the Rent Commencement Date and each anniversary thereof. However, if the Rent Commencement Date occurs on a date other than the first day of a month, then the first Lease Year shall begin on the first day of the month following the Rent Commencement Date.

(d) Annual Fixed Rent for each Lease Year (defined below) is set forth in the table below:

| <u>Lease Year</u> | <u>Annual Fixed Rent</u> |
|---|--------------------------|
| 1-5 | \$ 290,229.00 |
| 6-10 | \$ 313,447.00 |
| 11-15 | \$ 338,523.00 |
| 16-20 | \$ 365,605.00 |
| 21-25 [First Renewal Term (defined below)]* | \$ 394,853.00 |
| 26-30 [Second Renewal Term]* | \$ 426,442.00 |
| 31-35 [Third Renewal Term]* | \$ 460,557.00 |
| 36-40 [Fourth Renewal Term]* | \$ 497,401.00 |

*if applicable

Section 2.2 Intentionally Deleted

Section 2.3 Rent Payment:

Tenant shall pay the Annual Fixed Rent, and all required tax thereon, in equal monthly

installments in advance and without notice or demand, by wire transfer or ACH payment in lawful money of the United States of America, promptly upon the days the same becomes due and payable, to Landlord at 8491 West Sunset Boulevard, #497, West Hollywood, CA 90069, or at such address as may from time to time be designated by Landlord in writing. It is the intention of Landlord and Tenant that the Annual Fixed Rent, and all other sums payable hereunder (collectively, the "Rent") shall be net to Landlord, so that this Lease shall yield to Landlord the net Rent specified herein during the Term. Consequently, throughout the Term and all extensions and renewals thereof, Tenant shall be responsible for the payment of all sales, use or similar tax now or hereafter levied, assessed or imposed against all Rent and other payments due or to become due under this Lease, whether federal, state or local. Contemporaneously with the execution and delivery of this Lease, Tenant has paid to Landlord the monthly payment of Annual Fixed Rent for the first month of the Term.

Section 2.4 Late Payment:

Tenant acknowledges that late payments or returned checks of Rent will cause Landlord to incur costs not contemplated by this Lease, the exact amount of such costs being difficult and impractical to fix. Such costs include, without limitation, processing and accounting, late or handling charges that may be imposed on Landlord for late payment of obligations paid by Tenant. Therefore, if any installment of Rent or other required payment due from Tenant is not received by Landlord within five (5) days after its due date or is paid by a check which is returned, Tenant shall pay to Landlord an additional sum of ten percent (10%) of the Rent then due as a late or returned check charge. Notwithstanding the foregoing, Landlord agrees not to invoke its right to assess and collect the foregoing late or returned check charge for the first instance of either late payment or returned check in any lease year. The parties agree that this late payment and returned check charge represents a fair and reasonable estimate of the costs that Landlord will incur. Acceptance of a late charge or returned check charge shall not constitute a waiver of Tenant's default with respect to the overdue amount or prevent Landlord from exercising any of the other rights and remedies available to Landlord. All amounts owing by Tenant under this Lease, including but not limited to, Annual Fixed Rent, and all amounts paid by or on behalf of Tenant (such as Impositions, Real Estate Taxes, insurance premiums and maintenance costs), shall be deemed to be "Rent," and if payment of any Rent is past due, interest shall accrue on all past due amounts at the rate equal to ten percent (10%) per annum ("Default Rate").

ARTICLE III

ACCEPTANCE OF LEASED PREMISES

Section 3.1 Acceptance and Delivery of Premises:

Tenant acknowledges that as of the Effective Date, there exists a building and other improvements ("Existing Improvements") on the Premises occupied by Tenant and that Tenant operates a restaurant on the Premises. Tenant acknowledges and agrees that Landlord shall not, and is not obligated to, repair or replace the Existing Improvements, remediate or prepare the Premises, install or construct any improvements to or at the Premises, or perform any work whatsoever on or

at the Premises. Tenant acknowledges that Tenant has inspected the Premises and Existing Improvements and is relying solely on this inspection and not on any statement made by Landlord or any agent of Landlord regarding their condition. Tenant accepts the Premises and Existing Improvements "as is," in their present condition, without representation or warranty of any kind. Tenant shall, in accordance with the provisions of Article IV below, perform all work necessary to install, repair, maintain and replace the Improvements.

Section 3.2 Zoning and Building Codes:

Landlord makes no representation or warranty, and Tenant assumes the risk, that zoning and/or building codes allow for Tenant's intended use of the Premises. Tenant agrees that its obligations under this Lease including, but not limited to, its obligations to repair, maintain and replace the Existing Improvements and pay Rent are not conditioned upon applicable zoning and building codes allowing Tenant to maintain the Improvements (or any improvements) or to operate a restaurant thereon.

Section 3.3 Title:

Tenant takes the Leasehold Estate subject to all matters of record, taxes for 2007 and subsequent years, all matters which would be disclosed by an accurate survey of the Premises and all matters shown in *Exhibit "B"* attached hereto (collectively, the "Permitted Encumbrances").

ARTICLE IV
TENANT'S REQUIRED AND PERMITTED IMPROVEMENTS/ADDITIONS
OWNERSHIP OF IMPROVEMENTS

Section 4.1 Improvements to the Premises:

(a) The Leased Premises include a single restaurant building containing approximately 7969 square feet of space and related improvements ("Building") (the Building, together with all additions thereto, replacements and modifications thereof, all related fixtures, equipment, site improvements, signage and all other improvements now or hereafter located on the Premises shall hereinafter be referred to as the "Improvements") for use by Tenant in accordance with Section 5.1 below. Tenant shall be required to maintain the Improvements at its sole cost and expense. All work necessary to plan, construct and complete additions to the Improvements in accordance with this Lease is hereafter called the "Tenant Work". Tenant shall also be responsible for the payment of all other fees and charges associated with the maintenance of the Improvements and Tenant Work including, but not limited to, governmental fees and charges incurred in connection therewith and the use and operation of the Leased Premises, impact fees, utility connection fees, concurrency fees and requirements and architecture, engineering, legal and other professional fees. With respect to the Tenant Work:

(b) Tenant shall cause all construction of additions to the Improvements, including

maintenance and repairs thereof, ("Additions") to be performed in accordance with all applicable laws, in a good and workmanlike manner and in accordance with good construction and engineering practices, free from defects, structural, mechanical, or otherwise, in design, workmanship, and materials. At Tenant's sole cost, and without any liability imposed on Landlord, Landlord agrees to cooperate with Tenant (including, without limitation, by signing applications) in obtaining any necessary Permits (defined below) for any work (including, without limitation, sign installation) which Tenant is permitted or required to perform pursuant to this Lease. Landlord and Tenant agree to cooperate and coordinate the timing and construction of the Improvements.

(c) The Improvements, and any replacements, alterations, improvements or modifications thereto, shall be constructed and maintained in accordance with plans and specifications approved by Landlord as the same may be amended from time to time and approved by Landlord ("Plans"). The Plans must be in such detail as to be acceptable to the applicable governmental authorities having jurisdiction over the Leased Premises for Tenant to obtain its building permit and thereafter to obtain a permanent Certificate of Occupancy for use and occupancy of the Leased Premises in accordance with the terms and conditions of this Lease. The Plans must be prepared, at Tenant's sole cost, and certified by a Florida licensed architect. Landlord's approval of the Plans, when given, shall not imply Landlord's approval of the structural, engineering or other aspects of the designs, or the quality or fitness of any material or device used, or that the Plans are in accordance with applicable law, it being agreed that such compliance is solely the responsibility of Tenant. After approval of the Plans, Tenant shall cause the Improvements to be constructed in substantial accordance with the Plans. The approval of the Plans by Landlord shall be for the purpose of Landlord's approval rights hereunder only and shall not be deemed to be an opinion by Landlord as to the adequacy or sufficiency of the Plans. Except for Additions for which Plans were approved by Landlord, no other improvements shall be constructed on the Premises. Tenant shall be responsible for obtaining any and all necessary governmental permits and approvals (the "Permits") for construction and use of the Leased Premises.

(d) Prior to commencement of the Tenant Work, and prior to any reconstruction, additions or alterations, Tenant shall procure, at its sole cost and expense, a policy of broad form builder's risk insurance providing all-risk coverage acceptable to Landlord, statutory workers' compensation insurance and employer's liability insurance in amounts equal to amounts required by applicable law, and such other insurance in such amounts as Landlord shall reasonably require, and shall cause Landlord and Tenant to be named as insured thereunder. Without limiting the foregoing, such builder's risk insurance shall (i) include insurance against perils of fire with extended coverage and physical loss to the Improvements including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, windstorm, flood, earthquake, terrorism, temporary buildings and reasonable architectural and contractor expenses incurred as a result of any such loss, (ii) have limits equal to the contract price for the Additions, and (iii) name Landlord and Tenant as the loss payees. In addition, prior to the commencement of construction of the Additions, and prior to any reconstruction, addition or alteration, Tenant will provide a certified copy of the policy for such insurance to Landlord and a certificate in form acceptable to Landlord showing Landlord as an additional insured or loss payee, as applicable, thereunder. The certificate shall contain, among other

things, an agreement to provide Landlord with not less than thirty (30) days prior written notice before cancellation or modification of the coverage afforded thereunder.

(e) As a material inducement for Landlord to enter into this Lease, Tenant has agreed to not leave or allow a partially completed building to be located on the Premises. Accordingly, after commencement of construction of Additions, the Additions shall thereafter be diligently and continuously (subject to Force Majeure) prosecuted to completion in a good and workmanlike manner in accordance with the Plans as approved by Landlord and in accordance with all applicable laws, rules and regulations. Once commencement of the Additions begins, Tenant hereby guarantees to Landlord the lien-free completion of the Additions in accordance with the Plans and all applicable laws. In the event of casualty or other damage to the Improvements or Additions during construction, to the extent not paid for by insurance proceeds (however, delay in receipt of insurance proceeds shall not delay Tenant's completion of the Additions), Tenant shall diligently and continuously repair such damage at its sole cost and expense and continue construction of the Additions in accordance with the Plans. Notwithstanding the foregoing, in the event Tenant, at its sole cost and expense, transfers any lien to security in accordance with Florida Statutes Section 713.24, Tenant shall not be in default hereunder provided Landlord receives a copy of the recorded bond and such lien is transferred within the earlier of thirty (30) days notice from Landlord or the date Tenant becomes aware of the lien.

(f) Upon completion of the Additions, Tenant shall provide Landlord with (i) a copy of the as-built Plans, (ii) a copy of the Certificate of Occupancy for the Leased Premises, (iii) final releases of lien from all Lienors as defined under Chapter 713, Florida Statutes, and (iv) such other documents and information as Landlord shall reasonably require.

(g) Tenant hereby agrees to indemnify, defend with counsel selected by Tenant which is reasonably acceptable to Landlord and hold Landlord harmless from and against any and all loss, cost, damage and expense, including reasonable attorneys' fees at trial and all appellate levels, incurred or sustained by Landlord arising from or as a result of the construction of the Additions and/or Tenant's breach of this Article V.

Section 4.2 Tenant Default:

Upon default by Tenant in completion of the Additions, or any replacements, alterations, or modifications, at Landlord's option, in addition to all other rights and remedies available to Landlord based upon default under this Lease, Landlord may enter the Leased Premises and complete the work. In such event, Landlord may take over existing contracts of Tenant for construction, or may enter into new contracts for such construction, and Landlord shall be entitled to use Tenant's plans and specifications without any payment by Landlord for the same and without any liability to Tenant. Tenant shall reimburse and repay Landlord on demand for all costs and expenses incurred by Landlord in connection with any construction undertaken by Landlord on the Leased Premises pursuant to this paragraph.

Section 4.3 Ownership of the Improvements:

The Additions, once constructed, shall be owned by Tenant until the earlier of: (a) the termination or expiration of this Lease, or (b) the repossession of the Leased Premises by Landlord in accordance with applicable law. Upon the termination of this Lease, whether according to its terms or as a result of the early termination based upon the default of Tenant, or upon the repossession of the Leased Premises by Landlord based upon the default of Tenant hereunder, title, possession and ownership of all Improvements and Additions (whether real property, fixtures or personal property, but not Removable Property (defined below) shall automatically and without further action become the property of Landlord and shall become part of the real property interest in the Leased Premises owned by Landlord. Tenant hereby grants, bargains, sells and conveys to Landlord all of its right, title and interest in and to all Improvements and Additions to be constructed and located on the Premises, free and clear of all liens and encumbrances, effective upon the earlier of: (i) the expiration or termination of this Lease, whether according to its terms or as a result of the early termination based upon the default of Tenant hereunder, or (ii) the repossession of the Leased Premises by Landlord in accordance with applicable law. The agreement of Tenant to (c) construct and to keep and maintain the Improvements and Additions, and (d) transfer or allow the reversion of the Leased Premises to Landlord without consideration including, but not limited to, without consideration for any residual value or remaining useful life of the Improvements and Additions or goodwill for the location, whether or not generated by Tenant's efforts, is a material inducement to Landlord to enter into this Lease.

ARTICLE V PERMITTED AND REQUIRED USE OF THE PREMISES/ CONTINUOUS OPERATIONS

Section 5.1 Permitted Use of the Premises:

(a) Tenant shall use the Leased Premises for an On the Border restaurant with full-service bar ("Primary Use"), and other lawful uses incident to the Primary Use (collectively, the "Permitted Use"). The Leased Premises may not be used for any other purpose without the prior written consent of Landlord which shall not unreasonably withheld or delayed.

(b) In addition to compliance with the terms and conditions of this Lease, Tenant's use of the Leased Premises must at all times comply with applicable law.

Section 5.2 Continuous Operations:

Tenant shall Continuously Operate (hereinafter defined) its business at the Leased Premises throughout the Term and any extension or renewal thereof. For the purposes hereof, "Continuously Operate" shall mean conducting regular business at the Leased Premises in accordance with the Permitted Use, without ceasing operations thereof for a period in excess of one (1) day excluding periods during which the Leased Premises are vacant due to restoration following casualty,

condemnation, Landlord approved renovations, Holidays, and subject to Force Majeure.

ARTICLE VI

ASSIGNMENT AND SUBLETTING

Tenant shall not sublet the Leased Premises or any part thereof, or assign this Lease or any interest in this Lease whether by sale of assets, merger, consolidation or otherwise, or by sale or disposition of control or ownership without first having obtained the prior written consent of Landlord which shall not be unreasonably withheld or delayed, but Landlord's consent shall not be required if the assignee has a net worth in excess of \$10,000,000.00 as determined in accordance with GAAP. For the purposes hereof, a change in control of Tenant shall be deemed an assignment of this Lease. The term "control" shall mean (a) legal or beneficial ownership of fifty percent (50%) or more of the voting interests of Tenant or its assignee under a permitted assignment or its sublessee under a permitted sublease, or (b) the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of voting securities, by contract or otherwise. No permitted assignment or sublease shall relieve Tenant of any liability hereunder.

In the event Tenant assigns this Lease and the assignee continues the operation of the restaurant operated by Tenant or a comparable restaurant which may or may not serve the same type of food, the terms and conditions of this Lease shall remain in full force and effect.

ARTICLE VII

TAXES AND ASSESSMENTS

Section 7.1 Taxes and Assessments:

(a) As additional Rent, Tenant shall pay all real estate taxes, fees, charges, assessments, water and sewer rents, and charges, assessments for public improvements (and interest due on the unpaid installments thereof) and all other governmental taxes, assessments, levies, and all other impositions, general and special, ordinary and extraordinary, of every kind and nature whatsoever, imposed at any time during the Term, including any extensions or renewals thereof, upon or against the Leased Premises or any part thereof, or upon or against any building or improvement or any part thereof situated thereon, or upon fixtures and personal property placed in such building or on or about the Leased Premises, upon this Lease, or upon the Rent including sales and/or use tax on the Rent now or hereafter in effect, whether federal, state or local, or upon Landlord by reason of ownership of the Leased Premises, except income, estate, inheritance or any other similar taxes or impositions which may be levied or assessed against Landlord, or its successors in title, all of which said taxes, assessments, levies, and other impositions (collectively, "Tenant Imposition(s)"). Tenant shall pay the Tenant Impositions on or before the date upon which they become due and payable, and shall deliver to Landlord at all times, proper evidence of the payment and discharge of the Tenant Impositions. In the event that at any time during the Term, the Leased Premises constitute a separate parcel for real estate taxation (at the option of Landlord and subject to approval of the applicable

taxing authority), Tenant shall pay all real estate taxes and assessments ("Real Estate Taxes") against the Leased Premises directly to the taxing authority on or before the date the same becomes delinquent and provide proof of payment thereof to Landlord by such date. In the event that the Leased Premises is not taxed as a separate parcel for real estate taxation, in addition to all other Tenant Impositions, Tenant shall pay its proportionate share of Real Estate Taxes.

(b) Notwithstanding anything to the contrary in Section 7.1(a) to the contrary, Landlord may elect to collect, as Additional Rent, on the first day of each month, one-twelfth (1/12) of the Tenant Impositions as estimated by Landlord in its reasonable discretion. If Landlord collects estimated Rent for Tenant Impositions, Landlord shall pay such Tenant Impositions as and when due. In the event of any shortfall in the amount due for any Tenant Imposition and the amount Landlord has collected therefore, Tenant shall, within ten (10) days of receipt of notice thereof, pay to Landlord the shortfall together with applicable tax thereon.

(c) Provided Tenant is not then in default under this Lease beyond any applicable notice and/or cure period, Tenant shall have the right to contest the amount or validity, in whole or in part, of any Tenant Imposition by appropriate proceedings in which event Tenant may, if permitted by applicable law and so long as and to the extent that any fee mortgage now or hereafter in effect permits, defer the payment thereof during the pendency of such contest; provided, that in the case of any such contest and deferral of payment, Tenant shall give Landlord prompt notice thereof and shall deposit estimated taxes with the taxing authority or otherwise provide security acceptable to Landlord. Notwithstanding the foregoing, Tenant shall not be entitled to contest real property taxes except to the extent the Leased Premises is a separate tax parcel, and then only to the extent of the tax relating to the Leased Premises. Nothing herein contained, however, shall be so construed as to allow a Tenant Imposition to remain unpaid for such length of time as shall permit the Leased Premises, or any part thereof or estate therein or the lien thereon created by such imposition, to be sold by any municipal or other governmental authority for the non-payment of the same. To the extent that Tenant receives a refund for any year in which this Lease is in effect only for a portion of the year, Tenant shall pay to the Landlord a pro rata portion of the refund based upon the period for which Landlord was responsible for paying, or did pay, such Tenant Imposition.

ARTICLE VIII

ADDITIONAL TENANT COVENANTS AND WAIVERS

Section 8.1 Surrender:

(a) Upon the expiration of the Term of this Lease, any cancellation of the Term, or upon repossession of the Leased Premises by Landlord in accordance with applicable law, Tenant shall, without demand, quietly and peacefully deliver possession of the Leased Premises to Landlord in good condition and repair ordinary wear and tear only excepted. Tenant agrees that if Tenant does not surrender the Leased Premises to Landlord at the end of the Term, or upon any cancellation of the Term, as and when required herein, in addition to all other rights and remedies of Landlord provided herein, Tenant shall be responsible to pay to Landlord all damages Landlord may suffer on account

of Tenant's failure to surrender to Landlord possession of the Leased Premises as and when required herein.

(b) Upon the expiration of the Term, any cancellation of the Term, or upon repossession of the Leased Premises by Landlord, all office furniture, trade fixtures and equipment ("Removable Property") shall remain the property of Tenant and may be removed by Tenant at the end of the Term provided that Tenant is not then in default under this Lease and provided that such property is capable of removal without causing irreparable damage to the Leased Premises. If any damage results to the Leased Premises by reason of the installation or removal of the Removable Property, Tenant shall repair the same at its own expense prior to the expiration of the Lease Term and immediately upon quitting the Leased Premises. Any Removable Property of Tenant or any other party which shall remain on the Leased Premises for more than thirty (30) days after such expiration or termination may, at the option of Landlord, be deemed to have been abandoned and may either be retained by Landlord as its property or be disposed of, without accountability, in such manner as Landlord may deem appropriate. Landlord, however, shall also have the right to require Tenant to remove any Removable Property at Tenant's own cost and expense.

Section 8.2 Tenant's Compliance:

(a) Tenant will not use or permit the Leased Premises to be used for any illegal purposes, and Tenant will execute and comply, at Tenant's own cost and expense, with all laws, rules, orders, ordinances and regulations now in force or at any time issued, applicable to the Leased Premises or to Tenant's use, occupancy or improvement thereof, by any local, state and federal governments. Tenant shall be responsible for obtaining all governmental permits and approvals for the Leased Premises. Tenant's use and occupancy of the Leased Premises must be carried out so as not to cause or permit any loud or unreasonable noises or unreasonable disturbances to emanate therefrom and so as not to unreasonably disturb, annoy or otherwise unreasonably interfere with the use and enjoyment of the property, tenants or visitors of neighboring properties. In addition, Tenant shall use reasonable efforts during construction, maintenance or repair of the Improvements or Additions to minimize disruption to the use, operation, traffic flows and parking in and around the Leased Premises. Tenant will monitor all construction, maintenance and repair activity on the Leased Premises to ensure compliance with the requirements contained herein. Tenant shall indemnify and hold Landlord harmless from and against all expenses (including reasonable attorneys' fees), fines, penalties or claims for damages of every kind and nature arising out of any failure of Tenant to comply with any laws, rules or regulations now or hereafter applicable to the Leased Premises.

(b) Tenant shall have the right to contest by appropriate legal proceedings diligently conducted in good faith, in the name of the Tenant or Landlord (if legally required and provided that Tenant provides safeguards acceptable to Landlord), without cost or expense to Landlord, the validity or application of any law, ordinance, rule, regulation or requirement of the nature referred to in paragraph (a) of this Section 8.2 and, if by the terms of any such law, ordinance, order, rule, regulation or requirement, compliance therewith may legally be delayed pending the prosecution of any such proceeding, Tenant may delay such compliance therewith until the final

determination of such proceeding.

(c) Landlord agrees to execute and deliver any appropriate papers or other instruments which may be necessary or proper to permit Tenant to contest the validity or application of any such law, ordinance, order, rule, regulation or requirement and to cooperate in all reasonable respects with Tenant in such contest, provided that the same does not impose any cost, liability or expense on Landlord or the assets of Landlord, as determined by Landlord, in its reasonable discretion.

Section 8.3 Liability/Waiver:

(a) Tenant agrees to indemnify, defend (with counsel selected by Tenant which is reasonably acceptable to Landlord) and hold Landlord harmless from and against any and all claims by or on behalf of any person or entity, and any and all liability, cost, damage or expense sustained or incurred by Landlord (including any damage to any person or property) arising from or relating to: (i) Tenant's construction, use, occupancy, conduct, operation or management of the Leased Premises during the Term, (ii) any work or thing whatsoever done or not done on or in the Leased Premises by Tenant or any of its agents, contractors, servants, employees, licensees or invitees during the Term and in connection with any inspections or investigations of the Leased Premises, whether prior to or subsequent to the date hereof, (iii) any breach or default by Tenant in performing any of its obligations under the provisions of this Lease or under applicable laws, or (iv) any negligent or intentional act of Tenant or any of its agents, contractors, servants, employees, licensees, or invitees during the Term, including all expenses and liabilities incurred in connection with any such claim or any action or proceeding brought thereon including the reasonable attorney's fees, litigation expenses, investigations and experts, all regardless of whether such claim is asserted before or after the expiration of the Term or any earlier termination of this Lease.

(b) Except as provided in this paragraph, Landlord shall have no responsibility, duty or liability of any nature whatsoever with respect to any act or occurrence in, on or about the Leased Premises, including theft, vandalism, terrorism or malicious mischief, whether or not Landlord obtains or engages security services for the Leased Premises or otherwise, and Tenant hereby waives all claims against Landlord for damage to person or property sustained by Tenant or any person claiming through Tenant resulting from any act, accident or occurrence in or upon the Leased Premises or any part thereof and Landlord shall have no responsibility or liability whatsoever for any loss or damage to any of the Improvements or to Tenant's fixtures, equipment or other property on, or persons in or about the Leased Premises except in the event any of the losses or damage described in this paragraph are caused by the negligence or willful misconduct of Landlord.

Section 8.4 Right of Entry:

Tenant shall permit Landlord and Landlord's representatives and independent contractors at any time during usual business hours of the business operated on the Leased Premises and without interfering with Tenant's business operations (unless an emergency exists in which case time of entry

is unrestricted with respect to the Premises) to enter the Leased Premises for the purpose of inspections necessary for the safety, comfort or preservation of the Leased Premises and for the purpose of appraisals and financing. During the period of one hundred eighty (180) days prior to expiration of the Term, Landlord shall have the right to exhibit the Leased Premises for sale or lease during reasonable business hours, provided Landlord does so in a manner so as not to interfere with Tenant's business operations. Landlord shall have the right to post and keep upon the Leased Premises a "For Rent" or "For Sale" sign at any time within one hundred twenty (120) days before the expiration of the Term.

Section 8.5 Waiver:

The failure of Landlord to insist in any one or more instances upon the strict performance of any one or more of the covenants, terms and agreements of this Lease shall not be construed as a waiver of such covenants, terms or agreements, but the same shall continue in full force and effect, and no waiver by Landlord of any of the provisions hereof shall in any event be deemed to have been made unless the same be expressed in writing, signed by Landlord, and all remedies provided for by the terms of this Lease shall be cumulative.

Section 8.6 Liability Insurance:

Tenant shall maintain at its own expense throughout the Term, Broad Form Comprehensive General Liability Insurance covering personal injury, bodily injury and property damage liability with a combined single limit of not less than \$2,500,000.00, including "Umbrella" coverage, with a \$5,000.00 deductible which minimum liability limit shall increase by twenty (20%) at the end of each five (5) year period of the Term, incorporating premises/operations, products completed operation hazard, contractual insurance, dramshop coverage, broad form property damage liability, independent contractor's liability and property damage to protect both Landlord and Tenant against damage, costs and attorneys' fees arising out of accidents or other events of any kind occurring on, about or from the Leased Premises, or arising or resulting from Tenant's operations or business at the Leased Premises. Said liability insurance shall be written by a company or companies reasonably acceptable to Landlord naming Landlord as an additional insured. In addition, such insurance must have a deductible no greater than \$5,000.00 and Tenant shall be responsible for the deductible amount in the event of a claim by Landlord under the policy(ies). A certificate showing such insurance in force shall be delivered to Landlord prior to commencement of the Term, and such certificate shall be maintained throughout the Term. The certificate shall require thirty (30) days' written notice from the insurer to Landlord prior to any cancellation or reduction in coverage.

Section 8.7 Maintenance, Repairs and Replacements by Tenant:

(a) Throughout the Term, Tenant, at its sole cost and expense shall keep and maintain the Leased Premises in good order, condition and repair and in accordance with all applicable laws, rules and regulations including, but not limited to, diligently installing, maintaining, repairing and replacing when necessary the: (i) exterior windows, doors and walls, (ii) water and

sewer systems the extent located on the Leased Premises, (iii) mechanical, electrical, plumbing, structural, fire, safety systems and equipment, (iv) paving and storm water drainage serving the Premises, (v) exterior signage and exterior illumination and fixtures, (vi) exterior paint, (vii) all landscaping and irrigation located on the Leased Premises, and (viii) the roof and roof structure.

(b) Tenant shall not cause or permit any waste, damage or injury to the Leased Premises and shall keep the Leased Premises free of accumulations of dirt, rubbish and debris. Tenant shall not tear down, demolish or destroy any Building or Improvement hereafter erected upon the Leased Premises without first having obtained the written consent of Landlord. Outside storage, including outside storage of vehicles and trailers, shall not be permitted on the Leased Premises. Tenant, at its sole cost and expense, shall provide for and maintain its own trash collection and dumpsters located in an area approved by Landlord, and such dumpsters shall be fenced and gated.

(c) In the event Tenant fails to comply with the foregoing provisions of this Section 8.7, Landlord shall have the option of paying for the performance required of Tenant hereunder, and Tenant agrees to reimburse Landlord for all reasonable costs, expenses and other sums of money in connection therewith as Additional Rent with interest at the Default Rate from demand by Landlord.

Section 8.8 Utilities. Responsibilities of Tenant:

(a) Tenant shall pay and be responsible for all utilities and utility charges applicable to the Leased Premises including, but not limited to, electricity, oil or gas, telephone service, water and sanitary sewer, waste collection services, fire sprinkler charges and all other utilities and services used in connection with the Leased Premises, together with any taxes or surcharges thereon and any maintenance charges therefore and amounts payable pursuant to paragraph 2.4 above. In the event Tenant fails to timely pay for any of the foregoing utilities, Landlord shall have the option of paying such charges and Tenant shall reimburse Landlord for all reasonable costs, expenses and other sums of money in connection therewith as Additional Rent with interest at the Default Rate from demand by Landlord.

(b) Tenant understands and agrees that Landlord is not providing any utilities to the Premises and that Tenant shall contract with the utility providers as necessary for the provision of utilities to the Leased Premises. In no event shall Landlord be liable or responsible for the availability, capacity, quality, quantity, failure or interruption of any utility or other service to the Leased Premises.

(c) Tenant shall be responsible for entering into a separate maintenance agreement for the grease interceptor servicing the Premises, which interceptor must be serviced no less than once a year.

Section 8.9 Mechanics' Liens:

Tenant shall not permit or perform any act, nor is Tenant authorized to make any contract which may create or be the foundation for any lien or other encumbrance upon any interest of Landlord in any portion of the Leased Premises or any other property owned by Landlord. If, because of any act or omission of Tenant, any employee, agent or contractor of Tenant, or otherwise as a result of or in connection with any construction on or within the Leased Premises, any mechanic's or other lien, charge or order for the payment of money or other encumbrance shall be filed against Landlord and/or any portion of the Leased Premises or any other property of Landlord whether or not such lien, charge, order or encumbrance is valid or enforceable, Tenant shall, at its cost and expense, cause the same to be discharged of record, bonded or transferred to other security as provided by Florida law so as to free title to the Leased Premises or such other property of any claim or alleged claim of lien within thirty (30) days after written notice to Tenant of the filing thereof, Tenant shall indemnify, defend with counsel selected by Landlord and save harmless Landlord and all mortgagees against and from all reasonable costs, liabilities, suits, penalties, claims and demands, including reasonable counsel fees, appellate counsel and legal assistant fees resulting therefrom. In the event Tenant fails to comply with the foregoing provisions of this paragraph, Landlord shall have the option of discharging or bonding any such lien, charge, order or encumbrance by payment or otherwise, and Tenant agrees to reimburse Landlord for all reasonable costs, expenses and other sums of money in connection therewith as Additional Rent with interest at the Default Rate from demand by Landlord. All laborers, mechanics, and materialmen are hereby placed on notice that in connection with any labor, services or materials provided in connection with improvements made to the Lease Premises by, through or under Tenant, no such claimant shall have a right to claim a lien against any property of Landlord, including the Leased Premises, pursuant to Florida Statutes Chapter 713 or otherwise, and all such parties shall be put on record notice of the provisions of this paragraph by the recordation of the Memorandum of Lease provided for below.

ARTICLE IX **REPRESENTATIONS AND WARRANTIES**

Section 9.1 Landlord's Warranties and Representations

Landlord represents and warrants to Tenant, as follows:

- (a) Landlord has full right and authority to enter into this Lease and perform Landlord's obligations under this Lease;
- (b) Landlord is vested with title to the Leased Premises in fee simple, subject to the Permitted Encumbrances;
- (c) This Lease is and shall be binding upon and enforceable against Landlord in accordance with its terms, and the transaction contemplated hereby will not result in a breach of, or constitute a default or permit acceleration and maturity under any indenture, mortgage, deed of trust, loan agreement or other agreement to which Landlord or the Leased Premises are subject or by which Landlord or the Leased Premises are bound;

(d) Landlord has not (i) made a general assignment for the benefit of creditors, (ii) filed any involuntary petition in bankruptcy or suffered the filing of any involuntary petition by Landlord's creditors, (iii) suffered the appointment of a receiver to take possession of all or substantially all of Landlord's assets, (iv) suffered the attachment or other judicial seizure of all or substantially all of Landlord's assets, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally; and

(e) Upon the performance by Tenant of all the agreements herein set forth, Tenant may quietly hold and occupy the Leased Premises without any interruption by Landlord or persons claiming through or under Landlord subject to the terms and conditions of this Lease.

Section 9.2 Tenant's Warranties and Representations:

Tenant represents and warrants to Landlord, as follows:

(a) Tenant has full right and authority to enter into this Lease and perform Tenant's obligations under this Lease;

(b) All information, financial statements and other documents provide to Landlord by, or on behalf of, Tenant are true and correct in all respects;

(c) This Lease is and shall be binding upon and enforceable against Tenant in accordance with its terms, and the transaction contemplated hereby will not result in a breach of, or constitute a default or permit acceleration and maturity under any indenture, mortgage, deed of trust, loan agreement or other agreement to which Tenant is subject or by which Tenant is bound;

(d) Tenant has not (i) made a general assignment for the benefit of creditors, (ii) filed any involuntary petition in bankruptcy or suffered the filing of any involuntary petition by Tenant's creditors, (iii) suffered the appointment of a receiver to take possession of all or substantially all of Tenant's assets, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Tenant's assets, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally; and

(e) No representation or warranty of Tenant contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements and information contained herein not misleading.

ARTICLE X

MUTUAL COVENANTS

Section 10.1 Waiver of Subrogation:

Landlord and Tenant each waive any claim against the other for property damage to the extent

that such claim is covered by valid and collectible fire and extended coverage insurance carried for the benefit of the party entitled to make such claim on condition, but this waiver shall not apply if the policy of such insurance would be invalidated by the operation of such waiver.

Section 10.2 Statement by Tenant or Landlord:

(a) Upon demand of Landlord, for the benefit of any prospective purchaser, mortgagee or tenant of all or any portion of the Leased Premises, Tenant agrees to execute a statement of the condition of this Lease (i) certifying that this Lease is unmodified and in full force and effect or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect, (ii) the monthly rent and the date to which the Rent and other charges are paid, the amount of security held by Landlord, (iii) acknowledging that there are not, to the best of Tenant's knowledge, any uncured defaults or unfulfilled obligations on the part of Landlord hereunder, or specifying such defaults or unfulfilled obligations if any are claimed, and (iv) such other information as shall be reasonably requested.

(b) Upon demand of Tenant, for the benefit of any prospective party acquiring the Leasehold Estate pursuant to a permitted assignment or any prospective Leasehold Mortgagee (as hereinafter defined), Landlord agrees to execute a statement of the condition of this Lease (i) certifying that this Lease is unmodified and in full force and effect or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect, (ii) the monthly rental and the date to which the Rent and other charges are paid, the amount of security held by Landlord, if any, and (iii) acknowledging that there are not, to the best of Landlord's knowledge, any uncured defaults or unfulfilled obligations on the part of Tenant.

(c) The statements required in sections (a) and (b) above shall be provided within ten (10) business days of the demand. If the statement is not provided within this time period, the requesting party is granted the authority to execute the statement on behalf of the other party which will be deemed to have consented to the matters set forth in the statement and waived any objection thereto.

Section 10.3 Memorandum of Lease:

Landlord and Tenant shall execute and deliver a Memorandum of Lease in the form attached hereto as Exhibit "C" and by this reference made a part hereof.

ARTICLE XI
HAZARD INSURANCE/ FLOOD INSURANCE/
CASUALTY/ CONDEMNATION

Section 11.1 Hazard Insurance/Flood:

(a) Throughout the Term, Tenant shall procure and maintain comprehensive all

risk insurance on the Improvements including, but not limited to, fire and windstorm ("Hazard Insurance") and all personal property including contingent liability from Operation of Building Laws, Demolition Costs and Increased Cost of Construction Endorsements, in each case (i) in an amount equal to 100% of the "full replacement cost," which for purposes of this Lease shall mean actual replacement value with a waiver of depreciation, (ii) containing an agreed amount endorsement with respect to the Improvements and all personal property waiving all co-insurance provisions, (iii) providing for no deductible in excess of the lesser of \$5,000.00 and ten percent (10%) of the face value of such policy, and (iv) containing an "Ordinance or Law Coverage" or "Enforcement" endorsement if any of the Improvements or the use of the Leased Premises shall at any time constitute legal non-conforming structures or uses. The full replacement cost shall be re-determined from time to time, but not more frequently than once in any Lease Year at the request of Landlord, by an appraiser or contractor designated and paid by Tenant, or by an engineer or appraiser in the regular employ of the insurer providing the relevant coverage. No omission on the part of Landlord to request any such ascertainment shall relieve Tenant of any of its obligations under this Lease. Tenant may procure and maintain a blanket policy or policies of insurance to satisfy the Hazard Insurance requirements. An increased coverage or "umbrella policy" may be provided and utilized to increase the coverage provided by individual or blanket policies in lower amounts. Landlord shall be named as an additional insured/loss payee under the Hazard Insurance, as shall any mortgage lien holder encumbering the interest of Landlord in the Leased Premises if required by such mortgagee. A certificate showing such insurance in force shall be delivered to Landlord prior to execution of this Lease, and such certificate shall be maintained with Landlord throughout the Term. The certificate shall require thirty (30) days' written notice from the insurer to Landlord prior to any cancellation or reduction in coverage. The proceeds under the Hazard Insurance shall be payable to Landlord or to any mortgage lien holder encumbering the interest of Landlord in the Leased Premises, if required by such mortgagee, to be disbursed for reconstruction of the Leased Premises as hereinafter provided.

(b) Throughout the Term. Tenant shall carry, at the cost and expense of Tenant, a separate policy of flood insurance issued by the NFIP or an insurance company licensed in the State of Florida with a Best's Guide rating of "A" and a financial rating of "class 10" or better. The policy should provide the maximum amount of coverage as would be available under the NFIP, and be in an amount equal to 100% of the "full replacement cost". A certificate showing such insurance in force shall be delivered to Landlord prior to the execution of this Lease, and such certificate shall be maintained with Landlord throughout the Term. The certificate will show Landlord as the Insured and Landlord's lender as the certificate holder and loss payee. The certificate shall require thirty (30) days written notice from the insurer to Landlord and Landlord's lender prior to a cancellation, expiration or reduction in coverage.

Section 11.2 Personal Property and Rental Income Insurance:

During the Term, Tenant shall procure and maintain (a) insurance for Tenant's Removable Property and fixtures and equipment on or at the Leased Premises for their full replacement value, and (b) rental income insurance policy, with loss payable to Landlord, in an amount equal to the sum of one year's Annual Fixed Rent, one year of Real Property Taxes and one year's cost of all premiums

required to be procured and maintained by Tenant under this Lease.

Section 11.3 General Insurance Provisions:

All property damage insurance, whether applicable to the personal property, Building or otherwise, shall be in amounts not less than the full insurable replacement value of such property. All insurance required under this Lease shall be provided by responsible insurers rated at least A and X in the then current edition of Best's Insurance Guide and shall be licensed in the State of Florida. Insurance procured by Tenant hereunder shall be primary, and any insurance maintained by Landlord or any other additional insured, if any, hereunder shall be excess and noncontributory. All insurance policies required to be procured or maintained by Tenant under this Lease shall provide that such insurance shall not be cancelled without 30 days' prior written notice to Landlord. Tenant shall provide certificates of insurance evidencing that all of the required insurance has been procured and is in place.

Section 11.4 Casualty Loss:

(a) If there is damage to or destruction of the Leased Premises by fire or any other cause, similar or dissimilar, insured or uninsured, Tenant shall restore, repair, replace or rebuild the Leased Premises and all of its trade fixtures and equipment as nearly as may be possible to the condition, quality and class that the same were in immediately prior to such damage or destruction, or with such changes or alterations as Tenant shall elect to make, after the approval of Plans therefore by Landlord in the same manner required hereunder in connection with initial construction of the Improvements. Such restoration, repairs, replacement or rebuilding shall be commenced with reasonable promptness and prosecuted with reasonable and continuous diligence. In the event the Improvements are not restored to their condition prior to such damage or destruction within twelve (12) months of such damage or destruction, Tenant shall be in breach of this Lease and shall be deemed to have not rebuilt with reasonable and continuous diligence. Tenant's obligations to rebuild and restore the Improvements shall survive termination or expiration of the Lease with respect to any damage or destruction occurring prior to the termination or expiration of this Lease.

(b) Notwithstanding anything herein to the contrary, Tenant's obligation to pay Annual Fixed Rent, all other charges on the part of Tenant to be paid and to perform all other covenants and agreements on the part of Tenant to be performed shall not be affected, waived or reduced in any manner whatsoever by any damage to or destruction of the Leased Premises, or by the receipt or sufficiency of insurance proceeds, Tenant hereby waives the provisions of any statute or law now or hereafter in effect which relieves Tenant therefrom, and this Lease and the estate hereby granted shall not terminate by reason of any damage to or destruction of the Leased Premises.

Section 11.5 Condemnation:

In the event that all or any part of the Leased Premises are condemned and taken by any competent authority for any public or quasi public use or purpose, whether such taking is before or

after completion of the Improvements, each party shall be entitled to retain as its own property any award payable to such party for such party's loss, damage, or expense sustained on account of such condemnation or taking as determined by the Court in accordance with applicable law. Further, Landlord and Tenant agree as follows:

(a) If the whole of the Leased Premises shall be acquired or condemned by eminent domain, then the Term shall cease and terminate as of the date possession is taken from Tenant, and all Rent shall be paid up to the date of taking.

(b) If only a part of the Leased Premises is condemned and taken and such taking reduces the Leased Premises to such an extent that Brinker International (Tenant's franchisor) determines that Tenant's utilization of the Leased Premises is "commercially impracticable", Tenant shall have the right, at Tenant's election, to cancel and terminate this Lease as of the date possession is taken from Tenant, and all Rent and other amounts due hereunder shall be paid up to the date of taking.

(c) If only a part of the Leased Premises is condemned and taken under circumstances that Tenant does not have the option to terminate this Lease as provided above, or in the event Tenant elects not to terminate this Lease in the case where Tenant has the right to terminate this Lease as provided in Section 11.5 (b) above, Tenant, at Tenant's expense, shall promptly proceed to restore the remainder of the Leased Premises to a commercially reasonable condition and Rent and the other charges required hereunder shall be prorated and reduced to reflect the part of the Leased Premises taken via the condemnation. Tenant's portion of the award, including damages to the remaining Improvements awarded to Tenant, if any, shall be placed in escrow and held, applied and disbursed toward the repair of the Improvements as if the damage resulted from a casualty loss.

(d) Notwithstanding anything herein to the contrary, Tenant shall have no right to participate in, and shall have no right, title or interest in or to the recovery of condemnation proceeds for any portion of the property beyond Tenant's Leasehold Estate.

ARTICLE XII

DEFAULT/REMEDIES

Section 12.1 Default:

(a) If any one or more of the following events (herein sometimes called "Defaults" or "Events of Default") shall happen:

(i) if any Rent is not paid when due and such default in payment continues for a period of ten (10) days after written notice thereof from Landlord to Tenant (the 10-day period provided herein shall not affect Tenant's obligation to pay late charges or interest at the Default Rate as provided above); or

(ii) if Tenant fails to perform or comply with any of the covenants, agreements, terms or conditions contained in this Lease other than those referred to in the foregoing subsection (a) and such failure shall continue for a period of thirty (30) days after written notice thereof from Landlord to Tenant, provided that if any such failure shall be a failure that cannot be cured by the payment of money and cannot with diligence be cured within such 30 day period, and if the cure of such failure shall be promptly commenced and prosecuted with diligence, the period within which such failure may be cured shall be extended for such period of time as may be reasonably necessary to cure such failure so long as Tenant prosecutes such cure with diligence and continuity provided, however, such additional time to cure shall not apply to the failure of Tenant to provide and maintain the insurance required under this Lease and shall, in no event, exceed sixty (60) days; or

(iii) if Tenant shall abandon the Leased Premises for a period of fifteen (15) days or more, or if, within thirty (30) days after completion of the Improvements or after completion of repairs or restoration in the event of a casualty or condemnation, Tenant shall not open its business operations at the Leased Premises in accordance with the Permitted Use and shall thereafter not continuously operate its business at the Leased Premises throughout the Term as required under this Lease, subject to Force Majeure; or

(iv) if Tenant shall (a) generally not pay its debts as they come due, (b) admit in writing its inability to pay its debts, (c) make a general assignment for the benefit of creditors, (d) commence any case, proceeding or other action, seeking any reorganization, arrangement, composition, adjustment, liquidation, wage earner's plan, dissolution or similar relief under the present or any future law relating to bankruptcy, insolvency, reorganization, or relief of debtors, (e) seek or consent to or acquiesce in the appointment of any trustee, receiver, custodian, or other similar official for Tenant or for all or any substantial part of Tenant's assets or of the demised property, or (f) take any corporate or company action to authorize any of the actions set forth in clauses (a) through (e); or

(v) if any case, proceeding or other action against Tenant shall be commenced seeking to have an order for relief entered against it as debtor, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization, or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property, and such case, proceeding or other action results in the entry of an order for relief against it which is not fully stayed within sixty (60) days after the entry thereof; or

(vi) if Tenant's interest in the Leased Premises shall be seized under any levy, execution, attachment or other process of court and the same shall not be promptly vacated or stayed on appeal or otherwise, or if Tenant's interest in the Leased Premises is sold by judicial sale and the sale is not promptly vacated or stayed on appeal or otherwise;

then in any such event, Landlord may at any time thereafter terminate this Lease and retake possession

of the Leased Premises, hold the same for the account of Tenant, or pursue any other remedy afforded by law or in equity including, but not limited to, the right to recover damages for the default by Tenant of its obligations hereunder. Any such termination shall apply to any extension or renewal of the Term, and to any right or option on the part of Tenant that may be contained in this Lease or any agreement. In the event of a default as provided in this Section 12.1 or abandonment of the Leased Premises by the Tenant, in addition to all other remedies, Landlord shall have the option to declare immediately due and payable the entire Annual Fixed Rent, and all other Rent, if any, shall then become immediately due and payable, including all applicable tax. Upon termination of this Lease, or repossession of the Leased Premises based upon a Default by Tenant hereunder, title, possession and ownership of all Improvements (whether real property, fixtures or personal property) shall automatically and without further action become the property of Landlord and shall become part of the real property interest in the Leased Premises owned by Landlord. Nothing herein contained shall be construed as precluding Landlord from having such remedy as may be and become necessary in order to preserve Landlord's right or the interest of Landlord in the Leased Premises or in this Lease, even before the expiration of the grace or notice periods provided for in this Lease, if under particular circumstances then existing, the allowance of such grace or the giving of such notice will prejudice or will materially endanger the rights and estate of Landlord in this Lease or in the Leased Premises.

(b) Landlord's failure to declare a default upon the occurrence of any Event of Default, shall not be deemed to be a waiver of Landlord's rights, any provision of the Lease, or Landlord's right to declare a default upon a similar occurrence. Tenant shall not have any defense of waiver, estoppel, modification, consent or laches based upon any failure of Landlord to declare a default when entitled to do so.

Section 12.2 Landlord's Right to Perform Tenant's Obligations:

If Tenant shall at any time, for a period of ten (10) days after written notice, fail to (a) pay any Imposition in accordance with the requirements of this Lease, (b) take out, pay for or maintain the insurance required in this Lease, (c) fail to cause any lien to be discharged as therein provided, (d) for a period of thirty (30) days after notice thereof, fail to perform any other act on its part to be performed under this Lease or, in the case of a default which cannot with due diligence be cured within said 30-day period, if Tenant shall fail promptly and in good faith to commence to remedy the default or shall thereafter fail to prosecute the remedying of such default with all due diligence, then Landlord may, but shall not be obligated to, and without further notice or demand upon Tenant and without waiving or releasing Tenant from any obligations of Tenant in this Lease contained, (e) pay any Imposition payable by Tenant pursuant to the provisions of this Lease, (f) pay for and maintain the insurance policies required pursuant to this Lease, (g) discharge any lien required to be discharged by Tenant pursuant to this Lease, or (h) perform any other act on Tenant's part to be performed under this Lease. All sums paid by Landlord and all incidental costs and expenses, including any fine, penalty, interest or other charge paid or incurred by Landlord in connection with the performance of any such act, together with interest thereon from the date of making of such expenditure at the Default Rate and amounts payable pursuant to Section 2.4 above shall be payable by Tenant to Landlord on demand. In addition, Landlord shall have no liability to Tenant for exercising Landlord's rights under

this paragraph and Tenant waives all claims it does, or may have, that the Landlord's actions were unnecessary due to a defense Tenant could, or should, have maintained.

ARTICLE XIII

MORTGAGE OF FEE INTEREST

Landlord hereby represents to Tenant that the Premises are not currently encumbered by a mortgage lien. Landlord shall have the unrestricted right to mortgage its fee interest in the Leased Premises and its interest under this Lease. Subject to the non-disturbance rights provided below, this Lease shall automatically be subject and subordinate to any mortgage encumbering the fee simple title of Landlord in the Leased Premises and to any renewal, extension, modification or replacement thereof, provided, however, that (a) in the event of a default under such mortgage, no proceeding to foreclose the same, shall disturb Tenant's possession or use of the Leased Premises so long as Tenant is not in default under this Lease, subject to any applicable notice and/or cure period provided herein, and (b) the holder of such first mortgage shall be obligated to honor the insurance and condemnation provisions set forth herein. In addition, in the event that any such first mortgagee becomes the owner of the Leased Premises, whether by foreclosure or otherwise, Tenant agrees to attorn to such lender with respect to its obligations under this Lease. Tenant agrees to execute from time to time, reasonable Subordination, Non-Disturbance and Attornment Agreements in favor of any lender now or hereafter having a mortgage lien on all or any portion of the Leased Premises provided Tenant receives the non-disturbance rights set forth above, and provided that such agreement does not materially decrease Tenant's rights or materially increase Tenant's obligations pursuant to this Lease.

ARTICLE XIV

BROKERS

Tenant and Landlord represent and warrant to each other that neither has had any dealings or discussions with any broker or agent, licensed or otherwise, in connection with this Lease, other than Marcus & Millichap ("Broker"), whose commission shall be paid by Tenant pursuant to its agreement with Broker, and each covenants to protect, defend, hold harmless and indemnify the other from and against any and all losses, liabilities, damages, costs and expenses (including reasonable legal fees) arising out of or in connection with any claim by any brokers or agents other than Broker for brokerage commissions relating to this Lease alleged to be due because of dealings or discussions with the indemnifying party.

ARTICLE XV

OPTION TO RENEW

Section 15.1 Options

(a) Subject to the terms of this Article XV, Landlord hereby grants to Tenant the exclusive right and option to renew ("First Option") this Lease for an additional term of five (5) years beginning Year 21, and ending through Year 25 ("First Renewal Term"). In the event Tenant has

timely and properly exercised its option to extend this Lease for the First Renewal Term, Tenant shall have the right and option ("Second Option") to further renew this Lease for an additional term of five (5) years beginning Year 26, and ending through Year 30 ("Second Renewal Term"). In the event Tenant has timely and properly exercised its option to extend this Lease for the Second Renewal Term, Tenant shall have the right and option ("Third Option") to further renew this Lease for an additional term of five (5) years beginning Year 31 and ending through Year 35 ("Third Renewal Term"). In the event Tenant has timely and properly exercised its option to extend this Lease for the Third Renewal Term, Tenant shall have the right and option ("Fourth Option") to further renew this Lease for an additional term of five (5) years beginning Year 36, and ending through Year 40 ("Fourth Renewal Term"). The "First Renewal Term," "Second Renewal Term", "Third Renewal Term", and "Fourth Renewal Term" shall hereinafter be referred to collectively as the "Renewal Terms."

(b) In order to be entitled to exercise the First Option, the Second Option, Third Option and Fourth Option (each, a "Renewal Option"), Tenant shall not at the time for the exercise of each such option be in default under this Lease, subject to any applicable notice and/or cure periods provided herein. In order to exercise a Renewal Option, Tenant must provide Landlord with written notice of its election to exercise such Renewal Option not less than six (6) months prior to the end of the Term then in effect. In the event that the Initial Term or any Renewal Term shall be terminated under the provisions of this Lease or by operation of law, then each of the subsequent Renewal Option(s) shall also be terminated. Upon Tenant's providing notice to Landlord of its election to exercise any of the Renewal Options, such election shall be irrevocable and this Lease shall be automatically extended for the Renewal Term for which the option was exercised.

(c) In the event of the exercise of any of the Renewal Options, Landlord and Tenant agree that the Renewal Terms shall be on the same terms and conditions as the Initial Term of this Lease including, but not limited to, all required payments hereunder by Tenant for taxes and assessments, and all other amounts required hereunder, including the applicable Annual Fixed Rent and all other Rent provided for herein subject to increases and adjustment as provided in this Lease.

ARTICLE XVI
COVENANTS, REPRESENTATIONS AND WARRANTIES
CONCERNING ENVIRONMENTAL LAWS COMPLIANCE
AND HAZARDOUS WASTE COMPLIANCE

Tenant hereby covenants with Landlord and represents and warrants to Landlord as follows:

Section 16.1 Tenant will strictly comply, at its sole cost and expense, with any and all applicable federal, state and local environmental laws, rules, regulations, permits and orders affecting the Leased Premises and the business operations conducted on the Leased Premises, whether now in effect or as may be promulgated hereafter, and as may be amended from time to time ("Environmental Law(s)"), and Tenant will obtain and strictly comply with all federal, state and local permits and other governmental approvals in connection with Tenant's use and occupancy of the Leased Premises.

Tenant acknowledges that Landlord makes no representations, express or implied, concerning the availability or likelihood of obtaining any required permits or approvals for Tenant to conduct its business operation on the Leased Premises.

Section 16.2 Tenant agrees not to store in, on or outside of the Leased Premises any hazardous materials of any type, as defined by any local, state or federal agency, or any other toxic, corrosive, reactive, or ignitable material without the written consent of Landlord. Notwithstanding the foregoing, Tenant shall be permitted to use ordinary hazardous materials at the Leased Premises such as cleaning materials which are used in the ordinary course of Tenant's business and in compliance with all Environmental Laws.

Section 16.3 Tenant agrees to document all hazardous waste disposal, if any, keep the same on file for ten (10) years, and document the same by one of the following types of documentation: (a) a hazardous waste manifest; (b) a bill of lading from a bonded hazardous substance transporter showing shipment of a licensed hazardous waste facility; or (c) a confirmation of receipt of materials from a recycler, a waste exchange operation, or other permitted hazardous waste management facility.

Section 16.4 Without limiting the generality of paragraph (a) of this Article, Tenant, at its sole cost and expense, will strictly comply with any and all applicable Environmental Laws relating to the generation, recycling, re-use, sale, storage, handling, transport, disposal and presence of any Hazardous Materials as hereinafter defined on the Leased Premises. As used in this Article, the term "Hazardous Material(s)" shall mean any substances defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", "toxic substances", "contaminants", or other pollution under any applicable Environmental Laws. Notwithstanding anything to the contrary contained herein, Landlord's consent to any action by Tenant shall not operate to relieve Tenant of the obligation to comply with all of the provisions of this Article. Tenant will not permit or allow, and will take all actions necessary to avoid, the occurrence of any spills, releases or discharges of Hazardous Materials on or off the Leased Premises as a result of any construction on or use of the Leased Premises, and Tenant shall promptly advise Landlord in writing immediately upon becoming aware of (a) the existence of any spills, releases or discharges of Hazardous Materials that occur on or onto the Leased Premises, or off the Leased Premises as the result of any construction on or use of the Leased Premises, and of any existing or threatened violation of this Section, (b) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened by any governmental authority with respect to the Leased Premises under any applicable Environmental Laws, (c) any and all claims made or threatened by any non-governmental party against Tenant or the Leased Premises relating to damage, contribution cost, recovery, compensation, loss or injury resulting from any Hazardous Materials or any violation of applicable Environmental Laws, and (d) Tenant's discovery of any occurrence or condition on any real property adjoining or in the immediate vicinity of the Leased Premises that could cause the Leased Premises or any part thereof to be subject to any restrictions on the ownership, occupancy, transferability or use of the Leased Premises under any Environmental Laws.

Section 16.5 Tenant acknowledges that it has inspected the Leased Premises and has

undertaken all appropriate inquiry into the present and past uses of the Leased Premises consistent with good commercial practice, accepts the Leased Premises in its current condition with respect to its compliance with Environmental Laws, and waives any and all claims against Landlord for clean up or remediation of the Leased Premises.

Section 16.6 Without Landlord's prior written consent, Tenant shall not enter into any settlement, consent or compromise with respect to any Environmental Claim(s) (defined below) provided, however, that Landlord's prior consent shall not be necessary for Tenant to take any remedial action if ordered by a court of competent jurisdiction or if the presence of Hazardous Materials at the Leased Premises poses an immediate, significant threat to the health, safety or welfare of any individual who otherwise requires an immediate remedial response. As used in this Section, "Environmental Claim(s)", shall mean any claim(s) or cause(s) of action resulting from the failure of Tenant or the Leased Premises to comply with any Environmental Law relating to Hazardous Materials, industrial hygiene or environmental conditions. In any event, Tenant shall promptly notify Landlord of any action so taken.

Section 16.7 Without limiting the generality of paragraph (a) of this Article, at all times during the Term, Tenant, at its sole costs and expense, shall comply with any and all applicable laws, regulations, ordinances, permits and orders regulating the type and quantity of waste that may be discharged into the sanitary sewer system serving the Leased Premises including, but not limited to, all rules, regulations, permits, and orders of the Miami Dade Water and Sewer Authority.

Section 16.8 Tenant agrees that Landlord and Landlord's agents and independent contractors at any time during usual business hours and after reasonable notice except in the case of an emergency, and without interfering with Tenant's business operations except in the case of an emergency, in which case time of entry is unrestricted may enter and inspect the Leased Premises from time to time, to verify that Tenant's operations on the Leased Premises do not violate any of the provisions of this Article and that they comply with any and all applicable Environmental Laws. Landlord may obtain reports from licensed professional engineers or other environmental scientists with experience in environmental investigations and may require Tenant to permit such licensed professional engineers or other environmental scientists to conduct complete and thorough on-site inspections of the Leased Premises including, without limitation, sampling and analysis of the soil, surface water, groundwater and air to determine whether Tenant is in compliance with the provisions of this Article and all Environmental Laws. Tenant and its agents shall reasonably cooperate with Landlord and its agents in connection with the conduct of such investigations. In the event such investigations disclose that Tenant is in default under this Article, Tenant shall, immediately upon demand, reimburse Landlord for all costs and expenses of investigations. Landlord may, at its option, undertake such steps as it deems necessary to cure such default and to bring the Leased Premises into compliance with the terms of this Article, and Tenant shall, immediately upon demand, reimburse Landlord for all costs and expenses incurred in curing such default and bringing the Leased Premises into compliance with the terms of this Article.

Section 16.9 Tenant shall indemnify and hold Landlord harmless from and against any and

all claims, demands, damages, losses, liens, liabilities, penalties, fines, lawsuits and other proceedings, costs, and expenses including, without limitation reasonable attorney's fees and costs at trial and all appellate levels, arising directly or indirectly from or in any way connected with (a) the presence, or use, generation, treatment, sale or storage on, under or about the Leased Premises of any Hazardous Materials on the Leased Premises, whether or not expressly approved by Tenant in writing or otherwise (excluding any Hazardous Material existing on the Leased Premises caused by Landlord, its employees, agents or contractors), (b) any violation of any Environmental Law, (c) the costs of any necessary inspection, audit, cleanup or detoxification of the Leased Premises under any Environmental Laws, and the preparation and implementation of any closure, remedial or other required plans, consent orders, license application or the like to the extent caused by any contamination of Hazardous Materials or violation of Environmental Laws occurring during the tenancy created hereby except to the extent caused by Landlord, its employees, agents or contractors, or (d) any default by Tenant under this Article. All reasonable sums paid and costs incurred by Landlord with respect to any Environmental Claim or any other matter indemnified against hereunder shall be due and payable by Tenant immediately upon demand. If, after written demand, Tenant fails to pay any sums due pursuant to this indemnification, such sums shall bear interest at the Default Rate from the date so paid or incurred by Landlord until Landlord is reimbursed by Tenant. The indemnification contained herein shall survive the termination of the Leasehold Estate created hereby and any assignment by Landlord of its rights under this Lease.

Section 16.10 Any breach of covenants, representations or warranties contained in this Article including, but not limited to, the occurrence of any environmental claim, violation of Environmental Laws, or spills, release or discharges of Hazardous Materials on or about the Leased Premises shall constitute a default under this Lease. No waiver of any breach of any provision of this Section shall constitute a waiver of any preceding or succeeding breach of the same or any other provisions hereof.

ARTICLE XVII **LEASEHOLD FINANCING**

Section 17.1 Tenant may, without Landlord's consent, from time to time mortgage or encumber its rights under this Lease in and to the Leasehold Estate provided that such mortgage shall not cause Tenant to become insolvent or otherwise result in a default under this Lease and, provided further that such mortgage loan shall (a) require that the mortgagee use, or the allow the use of, any insurance proceeds payable with respect to the Leased Premises for the repair and restoration of the Improvements and not provide for application of such proceeds to the repayment of the mortgage loan, and (b) have a loan to value of no more than 80%. Any such pledge, mortgage or encumbrance upon the Leasehold Estate, as the same may be extended, modified, amended or replaced, is herein referred to as a "Leasehold Mortgage", the holder of which shall be referred to as the "Leasehold Mortgagee." Any Leasehold Mortgage shall by its terms be made expressly subject to all of Landlord's rights under the provisions, covenants, conditions, exceptions and reservations herein contained. Landlord shall not be bound to recognize any Leasehold Mortgagee or to give any Leasehold Mortgagee the notices, rights and protections contemplated under this Lease unless (c) such Leasehold Mortgagee or Tenant shall have notified Landlord of the existence of such Leasehold Mortgage and

of the name and United States address of such Leasehold Mortgagee in writing by hand delivery, recognized overnight courier service such as Federal Express, or by certified mail, return receipt requested, (d) such Leasehold Mortgagee is an Institutional Mortgagee as hereinafter defined, (e) the Leasehold Mortgage is a first mortgage lien encumbering Tenant's interest in the Leased Premises, and (f) there is no other Leasehold Mortgage then encumbering the Leasehold Estate. For the purposes hereof, an "Institutional Mortgagee" shall mean any federal or state chartered bank, savings bank or savings and loan, insurance company, pension fund, or recognized national brokerage firm.

Section 17.2 In case Tenant shall default in respect of any of the provisions of this Lease, any Leasehold Mortgagee shall have the right, but not the obligation, to cure such default whether the same consists of the failure to pay Rent or the failure to perform any other covenant which Tenant is required to perform under this Lease, and Landlord shall accept performance by or on behalf of such Leasehold Mortgagee as though, and with the same effect, as if the same had been done or performed by Tenant. A Leasehold Mortgagee will have a period of time after the service of such notice upon it within which to cure the default specified in such notice, which is the same period for cure, as is given to Tenant under the Lease in respect of the specified Default after the giving of such notice to Tenant. In the event of a Default or in the event that Landlord is seeking to terminate this Lease by reason of a Default which is curable without Leasehold Mortgagee being in possession and control of the Leased Premises, but cannot reasonably be cured within said period, the period of time for cure shall be extended for so long as any Leasehold Mortgagee is diligently and continuously proceeding to attempt to cure such default, provided that the Leasehold Mortgagee has begun proceedings to cure the default within the said period. In no event shall a default due to a failure to pay Annual Fixed Rent or other amounts due hereunder be deemed a Default which cannot be reasonably cured within the time for cure provided to Tenant. In addition, notwithstanding anything herein to the contrary, no additional period of time shall be provided to cure a default (such defaults hereinafter referred to as "Controllable Defaults") based upon (a) the failure of Tenant to maintain the insurance required herein, (b) the failure of Tenant to pay the Real Estate Taxes, (c) the failure of Tenant to Continuously Operate as required herein, (d) the failure to comply with Tenant's construction obligations, or (e) the failure of Tenant to comply with the Permitted Use restrictions contained herein.

Section 17.3 With respect to any non-monetary default by Tenant under this Lease that is not susceptible of being cured by the Leasehold Mortgagee without being in possession and control of the Leased Premises (which expressly excludes the Controllable Defaults), Landlord shall take no action to terminate this Lease on account of such default if, within sixty (60) days after notice of the default from Landlord (subject to any bankruptcy stays), the Leasehold Mortgagee shall have commenced appropriate proceedings to obtain possession of the Leased Premises (including possession by a receiver) or to foreclose the Leasehold Mortgage or otherwise to acquire Tenant's interest under this Lease and the Leased Premises, and shall thereafter be prosecuting the same to completion in good faith, with diligence and continuity (subject to any bankruptcy stays) provided, however, that: (a) the Leasehold Mortgagee shall not be obligated to continue any such possession or to continue such foreclosure proceedings or other action after the Default shall have been cured; (b) Landlord shall not be precluded from exercising any rights or remedies with respect to any other default by Tenant under this Lease during the pendency of such foreclosure proceedings; (c) during

the period of Landlord's forbearance, the Leasehold Mortgagee shall comply with such of the terms, covenants and conditions of this Lease as are then susceptible of compliance by the Leasehold Mortgagee; (d) if and after the Leasehold Mortgagee obtains possession of the Leased Premises or acquires Tenant's interest under this Lease, the Leasehold Mortgagee shall promptly commence and diligently pursue the curing of all defaults under this Lease then susceptible of being cured by the Leasehold Mortgagee, and (e) if a third party acquires Tenant's interest under this Lease at a foreclosure sale, such party shall promptly commence and diligently pursue the curing of all defaults under this Lease then susceptible of being cured by such party. Notwithstanding anything herein to the contrary, the Leased Premises must be owned by Tenant and operated by Tenant or by MASTER RESTAURANT DEVELOPERS, LLC.

Section 17.4 Landlord shall execute such documents as are required by the Leasehold Mortgagee in order for Tenant to obtain the Leasehold Mortgage.

ARTICLE XVIII **MISCELLANEOUS**

Section 18.1 Attorneys' Fees:

In connection with any litigation or proceeding under or in connection with this Lease between Landlord and Tenant, the prevailing party shall be entitled to recover all reasonable costs incurred, including reasonable attorney's fees and costs incurred in trial and appellate courts and in connection with a bankruptcy proceeding.

Section 18.2 Liability of Landlord:

The liability of Landlord under this Lease shall be limited to the interest of Landlord in the Leased Premises, and no other assets of Landlord or any member, affiliate, agent, officer, director, or principal of Landlord, disclosed or undisclosed, shall be subject to levy, lien or other enforcement for the satisfaction of such claim or judgment or other judicial process against Landlord. In addition to the foregoing and without limiting the scope thereof, Tenant agrees that Landlord is not liable, and Tenant waives all claims, for any incidental, special, consequential, punitive, aggravated or exemplary damages, or loss of business, income or profits, even if Landlord has been advised of the possibility of such claim, loss, damages, liability or expenses by Tenant or others.

Section 18.3 Satellite Communication:

Notwithstanding anything to the contrary in this Lease, to the extent permitted to do so under applicable law, Tenant may install, maintain, and replace on the roof of the Building or in the Leased Premises, a satellite communications dish and related equipment, provided that the same is in accordance with their requirements and approved by the Miami-Dade County. Tenant shall do so at its sole cost and in accordance with all laws, and shall defend, indemnify and hold Landlord harmless from and against any claims, costs or expenses incurred by Landlord as a result of such installation,

maintenance or replacement by Tenant.

Section 18.4 Signs:

Tenant agrees not to place, suffer to be placed or to maintain on the exterior of the Improvements or otherwise on the Premises, any sign, awning, decoration, improvement or advertising matter or on the glass of any window or door of the Leased Premises without first obtaining the written approval of Landlord and any governmental agency for Miami-Dade County having jurisdiction with respect to the design and location thereof, except as may otherwise be permitted in this Lease or approved at the time of the approval of the Plans.

Section 18.5 Holdover:

If Tenant shall hold the Leased Premises after the expiration of the Term, such holding over shall, in the absence of written agreement, be deemed to have created a tenancy from month to month terminable on thirty (30) days notice by either party to the other, at a monthly rental equal to 150% of the monthly Rent payable during the last year of said Term together with all applicable sales and/or used tax thereon. Upon Landlord exercising such thirty (30) day termination provision, Tenant shall have no further right to holdover and any holding over without the written consent of Landlord beyond said 30-day period shall require payment of 200% of the Rent last payable hereunder, and Tenant shall be liable to Landlord for all losses caused by such holdover. At all times during any holdover period, Tenant shall comply with all terms of this Lease including, but not limited, to payment of Annual Fixed Rent, Impositions and procurement and maintenance of insurance.

Section 18.6 Entire Agreement:

This Lease including the Exhibits attached hereto contains the entire agreement between Landlord and Tenant with respect to the Leased Premises and extinguishes all prior negotiations with respect thereto. No modification hereof shall be valid unless it is in writing and signed by both Landlord and Tenant.

Section 18.7 Effect and Construction:

The provisions of this Lease shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective successors and assigns. The Section headings are inserted for convenience of reference only and shall not be deemed to limit or expand upon any of the provisions of this Lease.

Section 18.8 Special Provisions on Bankruptcy:

(a) If Tenant proposes to assign the Lease pursuant to the provisions of the Bankruptcy Code, 11 U.S.C. 101 et seq. ("Bankruptcy Code"), to any person or entity who shall have made a bona fide offer to accept an assignment of this Lease on terms acceptable to Tenant, then

notice of such proposed assignment, setting forth (i) the name and address of such person, (ii) all of the terms and conditions of such offer, and (iii) the adequate assurance to be provided Landlord to assure such person's future performance under the Lease shall be given to Landlord by Tenant no later than twenty (20) days after receipt by Tenant, but in any event no later than ten (10) days prior to the date that Tenant shall make application to a court of competent jurisdiction for authority and approval to enter into such assignment and assumption, and Landlord shall thereupon have the prior right and option, to be exercised by notice to Tenant given at any time prior to the effective date of such proposed assignment, to accept an assignment of this Lease upon the same terms and conditions and for the same consideration, if any, as the bona fide offer made by such person, less any brokerage commissions which may be payable out of the consideration to be paid by such person the assignment of this Lease.

(b) Any person or entity to which this Lease is assigned pursuant to the provisions of the Bankruptcy Code, 11 U.S.C. 101 et seq., shall be deemed without further act or deed to have assumed all of the obligations arising under this Lease on and after the date of such assignment. Any such assignee shall upon demand execute and deliver to Landlord on instrument confirming such assumption.

(c) Notwithstanding anything in this Lease to the contrary, all amounts payable by Tenant to or on behalf of Landlord under this Lease, whether or not expressly denominated as rent, shall constitute Rent for the purposes of Section 502(b)(7) of the Bankruptcy Code 11 U.S.C. 502(b)(7).

Section 18.9 Severability:

If any term, covenant or condition of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each other term, covenant and condition of this Lease shall be valid, and be enforced, to the fullest extent permitted by law.

Section 18.10 Time/Incorporation of Exhibits:

Time is of the essence in all the terms, provisions, covenants and conditions of this Lease. All Exhibits attached to this Lease are incorporated herein by reference.

Section 18.11 Survival:

Any provision of this Lease which contemplate performance by Tenant or Landlord, or the existence of obligations of Tenant or Landlord, after the expiration or termination of this Lease shall expressly survive termination or expiration of this Lease and shall be binding upon Tenant and Landlord in accordance with the terms of this Lease, subject to any limitations expressly set forth otherwise in this Lease.

Section 18.12 Singular/ Plural:

As used in this Lease and when required by the context, each number (singular or plural) shall include all numbers, and each gender shall include all genders, and unless the context otherwise requires, the word "person" shall include "corporation, firm or association".

Section 18.13 Radon Gas Disclosure Statement:

RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL AND STATE GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN FLORIDA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY PUBLIC HEALTH UNIT.

Section 18.14 Landlord Consent.

Whenever Tenant is required to obtain Landlord's consent or approval pursuant to the provisions of this Lease, such consent shall not be unreasonably withheld or delayed.

Section 18.15 Notices:

Any notice required or permitted under this Lease shall be in writing and shall be deemed given if delivered by registered or certified mail, postage prepaid, by reputable overnight delivery service that provides proof of delivery, or by facsimile or electronic transmission with proof of confirmation of delivery and receipt to the numbers and addresses set forth below the parties signatures to this Lease. Either party may change its address for notice by giving written notice as provided above. Any notice shall be deemed given when delivered, or delivery refused with respect to Registered or Certified Mail, if refused.

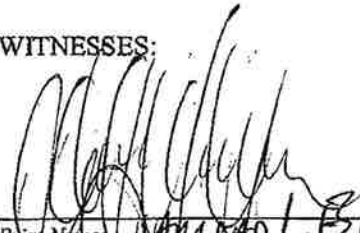
Section 18.16 Force Majeure:

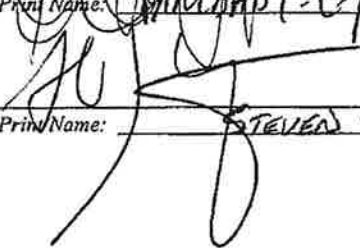
The term "Force Majeure" as used in this Lease shall include acts of God, strikes, lockouts or other industrial disturbances, terrorism, acts of the public enemy, wars, blockades, riots, acts of armed forces, epidemics, delays by carriers, inability to obtain materials, acts of public authorities and any other causes, whether or not enumerated in this Section, which causes are beyond the reasonable control of the party required to perform. Lack of funds shall not be deemed beyond the reasonable control of the party required to perform.

LANDLORD AND TENANT HEREBY KNOWINGLY AND VOLUNTARILY WAIVE TRIAL BY JURY IN ANY SUIT BROUGHT BY EITHER PARTY IN CONNECTION WITH THIS LEASE.

EXECUTED as of the date first above written in several counterparts, any one of which shall be deemed an original, but all constituting only one instrument.


WITNESSES:



Print Name: ARMANDO L. ESPINOZA


Print Name: STEVEN SCHULTZE

LANDLORD:

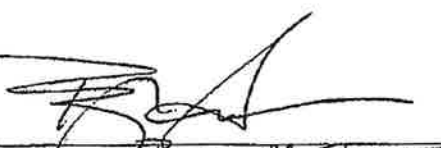
1538 N. Vista, LLC a California limited liability company

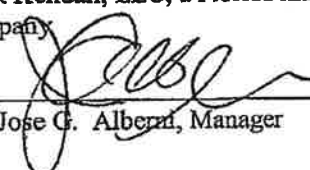
By:  Millenium Holdings, Inc., a California corporation, Manager

By:  Jeff Greene, ~~Manager~~ President

TENANT:

BOR Kendall, LLC, a Florida limited liability company


Print Name: Darryl W. Sauer

By:  Jose G. Alberai, Manager

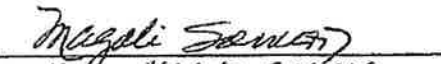

Print Name: Magali Sowers

EXHIBIT A

PROPERTY DESCRIPTION (ON THE BORDER)

A portion of Tract A of KV CENTER, according to the plat thereof, as recorded in Plat Book 150 at page 5 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows;

Commence at the Southeast corner of said Tract A; thence run N02°18'55"W along the East line of said Tract A for 33.92 feet; thence run S87°41'05"W, parallel to the South line of the SW1/4 of Section 36, Township 54 South, Range 39 East, Miami-Dade County, Florida, for 20 feet to the Point of Beginning; thence continue S 87° 41'05"W for 48.38; thence run S02°18'55"E for 13.25 feet; thence run S87°41'05"W for 32.83 feet; thence run S02°18'55"E for 5.22 feet; thence run S87°41'05"W for 40.36 feet; thence run N02°18'55"W for 46.43 feet; thence run N87°41'05"E for 11.36 feet; thence run N02°18'55"W for 65.49 feet; thence run N87°41'05"E for 110.21 feet; thence run S02°18'55"E for 93.45 feet to the Point of Beginning.

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EXHIBIT "A"

Legal Description of the Premises

EXHIBIT A

PROPERTY DESCRIPTION (ON THE BORDER)

A portion of Tract A of KV CENTER, according to the plat thereof, as recorded in Plat Book 150 at page 5 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows;

Commence at the Southeast corner of said Tract A; thence run N02°18'55"W along the East line of said Tract A for 33.92 feet; thence run S87°41'05"W, parallel to the South line of the SW1/4 of Section 36, Township 54 South, Range 39 East, Miami-Dade County, Florida, for 20 feet to the Point of Beginning; thence continue S 87° 41'05"W for 48.38; thence run S02°18'55"E for 13.25 feet; thence run S87°41'05"W for 32.83 feet; thence run S02°18'55"E for 5.22 feet; thence run S87°41'05"W for 40.36 feet; thence run N02°18'55"W for 46.43 feet; thence run N87°41'05"E for 11.36 feet; thence run N02°18'55"W for 65.49 feet; thence run N87°41'05"E for 110.21 feet; thence run S02°18'55"E for 93.45 feet to the Point of Beginning.

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EXHIBIT "B"
Permitted Encumbrances

Schedule B
Exceptions to Title

1. Mortgage by First ^{Regional} ~~Region~~ Bank dated as of December 14, 2007.
2. Easements and other matters as shown on Plat of KV CENTER, according to the Plat thereof, as recorded in Plat Book 150, page 5, of the Public Records of Miami-Dade County, Florida.
3. Covenants, conditions and restrictions set forth in Agreement and Declaration recorded in Official Records Book 4258, page 698, and Official Records Book 5641, page 290, respectively, Public Records of Miami-Dade County, Florida.
4. Covenants, conditions and restrictions contained in Covenants, running with the land recorded in Official Records Book 12177, page 2601, Official Records Book 12518, page 447, Official Records Book 14173, page 1715 and Official Records Book 17491, page 3648, of the Public Records of Miami-Dade County, Florida.
5. Covenants, conditions and restrictions contained in Amended Corrected and Restated Declaration of Restrictions recorded in Official Records Book 15543, page 215, of the Public Records of Miami-Dade County, Florida.
6. Covenants, conditions and restrictions contained in Declaration of Restrictive Covenants recorded in Official Records Book 15582, page 1165, amended by First Amendment recorded in Official Records Book 17577, page 1449, by Second Amendment recorded in Official Records Book 18262, page 3523, and by Supplemental Agreement recorded in Official Records Book 18438, page 656, of the Public Records of Miami-Dade County, Florida.
7. Covenants, conditions and restrictions contained in Declaration of Restrictions recorded in Official Records Book 15631, page 2618, amended in Official Records Book 17320, page 4299 and in Official Records Book 18468, page 4196, of the Public Records of Miami-Dade County, Florida.
8. Covenants, conditions and restrictions set forth in Declarations of Restrictions (Barnes & Noble and Michaels) recorded in Official Records Book 17150, page 822 and Official Records Book 17150, page 834, of the Public Records of Miami-Dade County, Florida.
9. Easement (BellSouth), including covenants, conditions and Restrictions, recorded in Official Records Book 17576, page 243, of the Public Records of Miami-Dade County, Florida.
10. The effects of street lighting special taxing district as evidenced by documents recorded in Official Records Book 17827, page 2683, and in Official Records Book 17855, page 2187, of the Public Records of Miami-Dade County, Florida.

11. Terms and effects of the Ground Lease, a memorandum of which is recorded in Official Records Book 18201, page 3372, Public Records of Miami-Dade County, Florida.

12. Covenants, conditions and restrictions, including easements and lien rights, set forth in Declaration of Restrictions and Reciprocal Easement Agreement recorded in Official Records Book 18522, page 3696, Supplemental Declaration recorded in Official Records Book 18522, page 3727, and paragraph 4 of Supplemental Declaration recorded in Official Records Book 18522, page 3734, of the Public Records of Miami-Dade County, Florida.

13. Covenants, conditions and restrictions set forth in Agreement (WASA) recorded in Official Records Book 18549, page 1318, of the Public Records of Miami-Dade County, Florida.

EXHIBIT "C"
Memorandum of Lease

[rms] WA73920LEASE681-Ground.BNS (12/11/7-14:58)

Instrument Prepared By/Return To:
Barry N. Semet, Esq.
Fowler White Burnett, P.A.
Espirito Santo Plaza
1395 Brickell Avenue, 14th Floor
Miami, Florida 33131-3302

Reserved for Recorder

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE ("Memorandum") is made as of the 14th day of December, 2007 by and between 1538 N. VISTA, LLC, a California limited liability company, 8491 West Sunset Boulevard, # 497, West Hollywood, CA 90069, hereinafter called "Landlord", and MASTER RESTAURANT DEVELOPERS, LLC, a Florida limited liability company, P. O. Box 997180, Miami, FL 33299-7180 hereinafter called "Tenant".

RECITALS

Landlord has demised to Tenant that certain property located in Miami-Dade County, Florida described in *Exhibit "A"* attached hereto and by this reference made a part hereof ("Premises") pursuant to that certain Lease dated December 14, 2007, ("Lease").

Landlord and Tenant desire to execute and record this Memorandum to place certain provisions of the Lease of record.

SELECTED LEASE PROVISIONS:

Term. The initial term of the Lease commences on December 14, 2007 and ends on December 31, 2027. Tenant has an option to renew the Lease for an additional term of five (5) years beginning January 1, 2028 and ending December 31, 2032, has a second option to renew the Lease for an additional five (5) years beginning January 1, 2033 and ending December 31, 2037, has third option to renew the Lease for an additional five (5) years beginning January 1, 2038 and ending December 31, 2042, and has a fourth option to renew the Lease for an additional five (5) years beginning on January 1, 2043 and ending on December 31, 2047

Prohibition of Liens on Landlord's Interest. Pursuant to Florida Statutes §713.10, all parties are hereby placed on notice, by the recordation of this Memorandum, that the Lease contains the following provision:

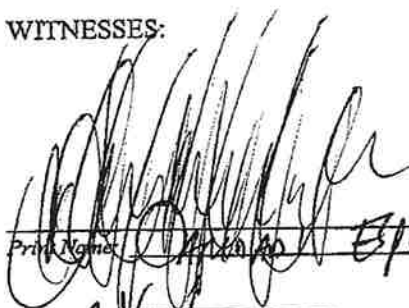
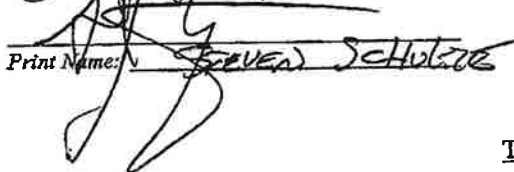
Tenant shall not permit or perform any act, nor is Tenant authorized to make any contract which may create or be the foundation for any lien or other encumbrance upon any interest of Landlord in any portion of the Leased Premises or any other property owned by Landlord. All laborers, mechanics, and materialmen are hereby placed on notice that in connection with any labor, services or materials provided in connection with improvements made to the Leased Premises by, through or under Tenant, no such lien claimant shall have a right to claim a lien against any property of Landlord, including the Leased Premises and the Land, pursuant to Florida Statutes Chapter 713 or otherwise,

The rentals to be paid by Tenant and all of the obligations and rights of Landlord and Tenant are as set forth in the Lease.

This Memorandum is merely a memorandum of certain of the terms and provisions of the Lease and is not intended to modify, amend, supplement or derogate the Lease. All parties are required to look to the entire Lease for the full terms, conditions and obligations between Landlord and Tenant

EXECUTED as of the date first above written.


WITNESSES:


Print Name: E. W. No. 8

Print Name: STEVEN SCHULER

LANDLORD:

1538 N. VISTA, LLC, a California limited liability company


By: Millenium Holdings, Inc., a California corporation, Manager

By: 
Jeff Greene, Manager - President

TENANT:

MASTER RESTAURANT DEVELOPERS, LLC, a Florida limited liability company

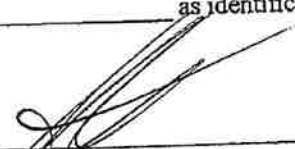

Print Name: Barry N. Sayers


Print Name: Nagali Sowers

By: 
Jose G. Alberai, Manager

STATE OF CALIFORNIA)
) ss:
COUNTY OF LOS ANGELES)

The foregoing instrument was acknowledged before me this 13th day of December, 2007 by Jeff Greene, President of Millenium Holdings, Inc., a California corporation, Manager of 1538 N. Vista, LLC, a California limited liability company, on behalf of the company ☒ who is personally known to me or ☐ who has produced _____ as identification.




Notary Public, STATE OF CALIFORNIA
Print name: Diego H. Bluvol
My Commission Expires:

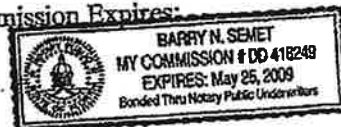


STATE OF FLORIDA)
) ss:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 12th day of December, 2007 by Jose G. Alberni, Manager of Master Restaurant Developers, LLC, a Florida limited liability company, on behalf of the company, ☒ who is personally known to me or ☐ who has produced _____ as identification.



Notary Public, STATE OF FLORIDA
Print name:
My Commission Expires:



[mrs] W\73920\MEMO0862-of-Lease.BNS\12\11\7-1631\

EXHIBIT B
GUARANTY
(see attached)

GUARANTY

FOR VALUE RECEIVED and as consideration for and an inducement to **1538 N. Vista, LLC**, a California limited liability company ("Landlord") to lease to **BOR Kendall, LLC**, a Florida limited liability company ("Tenant") the "Demised Premises" referred to in that certain Ground Lease of even date herewith by and between Landlord and Tenant ("Lease"), the undersigned do hereby guaranty to Landlord the payment of the Annual Fixed Rent and all other charges (collectively, the "Rent") and the due performance of all other terms, covenants and conditions in the Lease on the part of the Tenant to be paid and/or performed thereunder. In the event of any default by the Tenant under the Lease, the undersigned do hereby covenant and agree to pay to the Landlord in each and every instance such sums of money as the Tenant is and shall become liable for and/or obliged to pay under the Lease and/or fully to satisfy and perform such other terms, covenants and conditions of said Lease on the part of the Tenant to be performed thereunder, and to pay any and all damages, expenses, costs and attorneys' and paralegal fees through all trial and appellate levels (collectively, the "Damages") that may be suffered or incurred by Landlord as a result of the nonpayment of the Rent or the non-performance of any such other terms, covenants and conditions of said Lease. Such payments of Rent shall be made monthly or at such other intervals as the same shall or may become payable under the Lease, including any accelerations thereof, such performance of said other terms, covenants and conditions shall be made when due under the Lease and such Damages shall be paid when incurred by Landlord, all without requiring any notice from Landlord of such nonpayment, non-performance or non-observance or proof of notice or demand, all of which the undersigned hereby expressly waives. The maintenance of any action or proceeding by the Landlord to recover any sum or sums that may be or become due under the Lease, to secure

the performance of any of the other terms, covenants and conditions of the Lease, or to recover Damage, shall not preclude the Landlord from thereafter instituting and maintaining subsequent actions or proceedings for any subsequent or default(s) of Tenant under the Lease.

The undersigned hereby consent that without affecting the liability of the undersigned under this Guaranty and without notice to the undersigned, extensions of time maybe given by Landlord to Tenant for the payment of Rent and performance of said other terms, covenants and conditions, or any of them, or Tenant may be depossessed or Landlord may avail itself of or exercise any or all of the rights and/or remedies against Tenant provided by law or the Lease, and may proceed either against Tenant alone or either or both of the undersigned alone or jointly against the Tenant, the undersigned and any other guarantor. In the event of any bankruptcy, reorganization, winding-up or similar proceeding with respect to Tenant, no limitation of Tenant's liability under the Lease which may now or hereafter be imposed by any federal or state statute or regulation applicable to such proceedings shall in anyway limit the obligations of the undersigned hereunder which obligations are co-extensive with Tenant's liability as set forth in the Lease without regard to any such statutory limitation.

The undersigned do hereby further consent to any subsequent change, assignment, sublease, modification and/or amendment of the Lease in any of its terms, covenants or conditions, or in the Rent payable thereunder, and/or to any renewals or extensions thereof, all of which maybe made without notice to or consent of the undersigned and without in any manner releasing or relieving the undersigned from liability under this Guaranty, and undersigned do hereby further agree that in respect of any payments made by the undersigned hereunder, the undersigned shall not have any rights based on suretyship or otherwise to stand in place of the Landlord so as to compete with the

Landlord as a creditor of Tenant unless and until all claims of the Landlord under the Lease shall have been fully paid and satisfied.

This Guaranty cannot be modified, waived or terminated unless in writing, signed by the Landlord and shall apply to, bind and inure to the benefit of the undersigned and the Landlord and their respective heirs, legal representatives, successors and assigns.

The undersigned represent and warrant that the financial information provided to Landlord concerning its financial condition (as may have been combined with information concerning others) is accurate as of the date it was provided and the date of this guaranty, and understands that Landlord is relying upon such information in purchasing the subject property and entering into the Lease with Tenant. The undersigned agree that it will not voluntarily act to substantially impair the value of this Guaranty.

Dated: December __, 2007

MASTER RESTAURANT DEVELOPERS, LLC
a Florida limited liability company

By: _____

Jose G. Alberni, Manager

MASTER CONCESSIONAIRE, LLC, a Florida
limited liability company

By: _____

Jose G. Alberni, Manager

EXHIBIT C
MEMORANDUM OF LEASE
(see attached)

Instrument Prepared By/Return To:
Barry N. Semet, Esq.
Fowler White Burnett, P.A.
Espirito Santo Plaza
1395 Brickell Avenue, 14th Floor
Miami, Florida 33131-3302



CFN 2007R1222300
OR Bk 26131 Pgs 0784 - 789; (6pgs)
RECORDED 12/27/2007 13:48:25
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

Record & Return to:
LandAmerica - Cecile Emminger
8928 Brittany Way
Tampa, FL 33619
File # TLF07-000821

When recorded mail to:
LandAmerica Financial Group, Inc.
Attn: A. Brown
1850 N. Central Ave., #300
Phoenix, AZ 85004
Escrow No. 07-5402-2

Reserved for Recorder

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE ("Memorandum") is made as of the 14th day of December, 2007 by and between 1538 N. VISTA, LLC, a California limited liability company, 8491 West Sunset Boulevard, # 497, West Hollywood, CA 90069; hereinafter called "Landlord", and MASTER RESTAURANT DEVELOPERS, LLC, a Florida limited liability company, P. O. Box 997180, Miami, FL 33299-7180 hereinafter called "Tenant".

RECITALS

Landlord has demised to Tenant that certain property located in Miami-Dade County, Florida described in *Exhibit "A"* attached hereto and by this reference made a part hereof ("Premises") pursuant to that certain Lease dated December 14, 2007, ("Lease").

Landlord and Tenant desire to execute and record this Memorandum to place certain provisions of the Lease of record.

SELECTED LEASE PROVISIONS:

Term. The initial term of the Lease commences on December 14, 2007 and ends on December 31, 2027. Tenant has an option to renew the Lease for an additional term of five (5) years beginning January 1, 2028 and ending December 31, 2032, has a second option to renew the Lease for an additional five (5) years beginning January 1, 2033 and ending December 31, 2037, has third option to renew the Lease for an additional five (5) years beginning January 1, 2038 and ending December 31, 2042, and has a fourth option to renew the Lease for an additional five (5) years beginning on January 1, 2043 and ending on December 31, 2047

Prohibition of Liens on Landlord's Interest. Pursuant to Florida Statutes §713.10, all parties are hereby placed on notice, by the recordation of this Memorandum, that the Lease contains the following provision:

Tenant shall not permit or perform any act, nor is Tenant authorized to make any contract which may create or be the foundation for any lien or other encumbrance upon any interest of Landlord in any portion of the Leased Premises or any other property owned by Landlord. All laborers, mechanics, and materialmen are hereby placed on notice that in connection with any labor, services or materials provided in connection with improvements made to the Leased Premises by, through or under Tenant, no such lien claimant shall have a right to claim a lien against any property of Landlord, including the Leased Premises and the Land, pursuant to Florida Statutes Chapter 713 or otherwise,

The rentals to be paid by Tenant and all of the obligations and rights of Landlord and Tenant are as set forth in the Lease.

This Memorandum is merely a memorandum of certain of the terms and provisions of the Lease and is not intended to modify, amend, supplement or derogate the Lease. All parties are required to look to the entire Lease for the full terms, conditions and obligations between Landlord and Tenant

EXECUTED as of the date first above written.

WITNESSES:

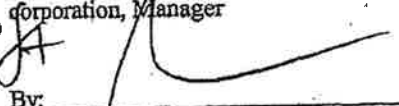

Print Name: DAVID N. JONES


Print Name: MAGALI SOWERS

LANDLORD:


1538 N. VISTA, LLC, a California limited liability company


By: Millenium Holdings, Inc., a California corporation, Manager

By: 
Jeff Greene, Manager President

TENANT:

MASTER RESTAURANT DEVELOPERS, LLC, a Florida limited liability company


Print Name: DAVID N. JONES


Print Name: MAGALI SOWERS

By: 
Jose G. Alberni, Manager

Tenant shall not permit or perform any act, nor is Tenant authorized to make any contract which may create or be the foundation for any lien or other encumbrance upon any interest of Landlord in any portion of the Leased Premises or any other property owned by Landlord. All laborers, mechanics, and materialmen are hereby placed on notice that in connection with any labor, services or materials provided in connection with improvements made to the Leased Premises by, through or under Tenant, no such lien claimant shall have a right to claim a lien against any property of Landlord, including the Leased Premises and the Land, pursuant to Florida Statutes Chapter 713 or otherwise,

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EXECUTED as of the date first above written.

WITNESSES:

LANDLORD:

1538 N. VISTA, LLC, a California limited liability company

By: Millenium Holdings, Inc., a California corporation, Manager

Print Name: _____

By: _____
Jeff Greene, Manager- President

Print Name: _____

TENANT:

MASTER RESTAURANT DEVELOPERS, LLC, a Florida limited liability company


Print Name: Barry N. Sasso

By: _____
Jose G. Alberni, Manager

Print Name: Megali Sowers

STATE OF CALIFORNIA)
) ss:
COUNTY OF LOS ANGELES)


The foregoing instrument was acknowledged before me this 13th day of December, 2007 by
Jeff Greene, President of Millenium Holdings, Inc., a California corporation, Manager of 1538 N.
Vista, LLC, a California limited liability company, on behalf of the company ☐ who is personally
known to me or ☒ who has produced _____ as identification.

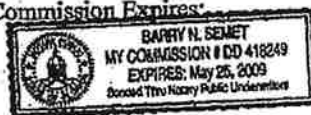

Notary Public, STATE OF CALIFORNIA
Print name: Diego H. Blum
My Commission Expires: _____



STATE OF FLORIDA)
) ss:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 12th day of December, 2007 by
Jose G. Alberni, Manager of Master Restaurant Developers, LLC, a Florida limited liability
company, on behalf of the company, ☒ who is personally known to me or ☐ who has produced
_____ as identification.


Notary Public, STATE OF FLORIDA
Print name: _____
My Commission Expires: _____



[nrs] W\73920\MEMO0862-of Lease.EHS (12/11/7-1631)

STATE OF CALIFORNIA)
) ss:
COUNTY OF LOS ANGELES)

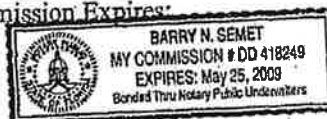
The foregoing instrument was acknowledged before me this ____ day of December, 2007 by
Jeff Greene, President of Millenium Holdings, Inc., a California corporation, Manager of 1538 N.
Vista, LLC, a California limited liability company, on behalf of the company ☐ who is personally
known to me or ☐ who has produced _____ as identification.

Notary Public, STATE OF ~~FLORIDA~~ CALIFORNIA
Print name: _____
My Commission Expires: _____

STATE OF FLORIDA)
) ss:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 12th day of December, 2007 by
Jose G. Alberni, Manager of Master Restaurant Developers, LLC, a Florida limited liability
company, on behalf of the company, ☒ who is personally known to me or ☐ who has produced
_____ as identification.

Notary Public, STATE OF FLORIDA
Print name: _____
My Commission Expires: _____



[mcs] W:\73920\MEMO0862-of Lease.BNS (12/11/7-1631)

EXHIBIT A

PROPERTY DESCRIPTION (ON THE BORDER)

A portion of Tract A of KV CENTER, according to the plat thereof, as recorded in Plat Book 150 at page 5 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows;

Commence at the Southeast corner of said Tract A; thence run N02°18'55"W along the East line of said Tract A for 33.92 feet; thence run S87°41'05"W, parallel to the South line of the SW1/4 of Section 36, Township 54 South, Range 39 East, Miami-Dade County, Florida, for 20 feet to the Point of Beginning; thence continue S 87° 41'05"W for 48.38; thence run S02°18'55"E for 13.25 feet; thence run S87°41'05"W for 32.83 feet; thence run S02°18'55"E for 5.22 feet; thence run S87°41'05"W for 40.36 feet; thence run N02°18'55"W for 46.43 feet; thence run N87°41'05"E for 11.36 feet; thence run N02°18'55"W for 65.49 feet; thence run N87°41'05"E for 110.21 feet; thence run S02°18'55"E for 93.45 feet to the Point of Beginning.

Instrument Prepared By/Return To:
Barry N. Semet, Esq.
Fowler White Burnett, P.A.
Espirito Santo Plaza
1395 Brickell Avenue, 14th Floor
Miami, Florida 33131-3302

Record & Return to:
LandAmerica - Cecile Emminger
8928 Brittany Way
Tampa, FL 33619
File # TLF07-000821

When recorded mail to:
LandAmerica Financial Group, Inc.
Attn: A. Brown
1850 N. Central Ave., #300
Phoenix, AZ 85004
Escrow No. 07-54022

CFN 2007R1222300
OR Bk 26131 Pgs 0784 - 7897 (6pgs)
RECORDED 12/27/2007 13:48:25
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

CFN 2008R0220816
OR Bk 26272 Pgs 3207 - 32147 (8pgs)
RECORDED 03/17/2008 12:14:43
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

Reserved for Recorder

CORRECTIVE
MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE ("Memorandum") is made as of the 14th day of December, 2007 by and between 1538 N. VISTA, LLC, a California limited liability company, 8491 West Sunset Boulevard, # 497, West Hollywood, CA 90069, hereinafter called "Landlord", and MASTER RESTAURANT DEVELOPERS, LLC, a Florida limited liability company, P. O. Box 997180, Miami, FL 33299-7180 hereinafter called "Tenant".

RECITALS

Landlord has demised to Tenant that certain property located in Miami-Dade County, Florida described in *Exhibit "A"* attached hereto and by this reference made a part hereof ("Premises") pursuant to that certain Lease dated December 14, 2007, ("Lease").

Landlord and Tenant desire to execute and record this Memorandum to place certain provisions of the Lease of record.

SELECTED LEASE PROVISIONS:

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Prohibition of Liens on Landlord's Interest. Pursuant to Florida Statutes §713.10, all parties are hereby placed on notice, by the recordation of this Memorandum, that the Lease contains the following provision:

NOTE TO RECORDER: THIS MEMORANDUM OF LEASE IS BEING RE-RECORDED TO CORRECT A SCRIVENER'S ERROR. THE MEMORANDUM OF LEASE INCORRECTLY NAMED AS THE "TENANT" MASTER RESTAURANT DEVELOPERS, LLC. THE CORRECT NAME OF THE "TENANT" IS BOR KENDALL, LLC, A FLORIDA LIMITED LIABILITY COMPANY.

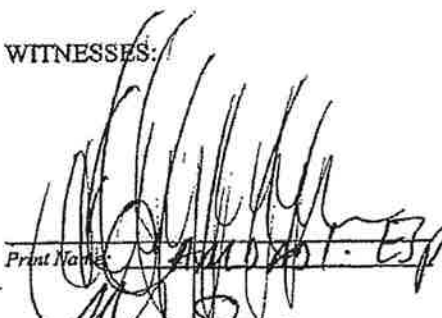
Tenant shall not permit or perform any act, nor is Tenant authorized to make any contract which may create or be the foundation for any lien or other encumbrance upon any interest of Landlord in any portion of the Leased Premises or any other property owned by Landlord. All laborers, mechanics, and materialmen are hereby placed on notice that in connection with any labor, services or materials provided in connection with improvements made to the Leased Premises by, through or under Tenant, no such lien claimant shall have a right to claim a lien against any property of Landlord, including the Leased Premises and the Land, pursuant to Florida Statutes Chapter 713 or otherwise,

The rentals to be paid by Tenant and all of the obligations and rights of Landlord and Tenant are as set forth in the Lease.

This Memorandum is merely a memorandum of certain of the terms and provisions of the Lease and is not intended to modify, amend, supplement or derogate the Lease. All parties are required to look to the entire Lease for the full terms, conditions and obligations between Landlord and Tenant

EXECUTED as of the date first above written.

WITNESSES:


Print Name: STEVEN SCHULZE

LANDLORD:

1538 N. VISTA, LLC, a California limited liability company


By: Millenium Holdings, Inc., a California corporation, Manager

By: 

Jeff Greene, Manager President

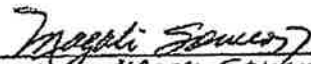
TENANT:

MASTER RESTAURANT DEVELOPERS, LLC, a Florida limited liability company


Print Name: JOSE G. ALBERNI

By: 

Jose G. Alberni, Manager


Print Name: NAGELI SOWERS

Tenant shall not permit or perform any act, nor is Tenant authorized to make any contract which may create or be the foundation for any lien or other encumbrance upon any interest of Landlord in any portion of the Leased Premises or any other property owned by Landlord. All laborers, mechanics, and materialmen are hereby placed on notice that in connection with any labor, services or materials provided in connection with improvements made to the Leased Premises by, through or under Tenant, no such lien claimant shall have a right to claim a lien against any property of Landlord, including the Leased Premises and the Land, pursuant to Florida Statutes Chapter 713 or otherwise,

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EXECUTED as of the date first above written.

WITNESSES:

LANDLORD:

1538 N. VISTA, LLC, a California limited liability company

By: Millenium Holdings, Inc., a California corporation, Manager

Print Name: _____


By: _____
Jeff Greene, President

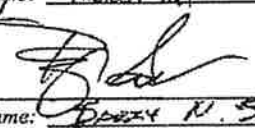
Print Name: _____

TENANT:

BOR KENDALL, LLC, a Florida limited liability company

By: 
Jose G. Alberni, Manager


Print Name: Fabian Pal


Print Name: Dany N. Senat

Tenant shall not permit or perform any act, nor is Tenant authorized to make any contract which may create or be the foundation for any lien or other encumbrance upon any interest of Landlord in any portion of the Leased Premises or any other property owned by Landlord. All laborers, mechanics, and materialmen are hereby placed on notice that in connection with any labor, services or materials provided in connection with improvements made to the Leased Premises by, through or under Tenant, no such lien claimant shall have a right to claim a lien against any property of Landlord, including the Leased Premises and the Land, pursuant to Florida Statutes Chapter 713 or otherwise,

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This Memorandum is merely a memorandum of certain of the terms and provisions of the Lease and is not intended to modify, amend, supplement or derogate the Lease. All parties are required to look to the entire Lease for the full terms, conditions and obligations between Landlord and Tenant

EXECUTED as of the date first above written.

WITNESSES:

LANDLORD:

1538 N. VISTA, LLC, a California limited liability company

By: Millenium Holdings, Inc., a California corporation, Manager

Print Name: _____

By: _____
Jeff Greene, Manager- President

Print Name: _____

TENANT:

MASTER RESTAURANT DEVELOPERS, LLC, a Florida limited liability company


Print Name: BARRY N. SERSO

By: _____
Jose G. Alberni, Manager

Print Name: Megali Sowers

STATE OF CALIFORNIA)
) ss:
COUNTY OF LOS ANGELES)


The foregoing instrument was acknowledged before me this 13th day of December, 2007 by Jeff Greene, President of Millenium Holdings, Inc., a California corporation, Manager of 1538 N. Vista, LLC, a California limited liability company, on behalf of the company ☐ who is personally known to me or ☒ who has produced _____ as identification.

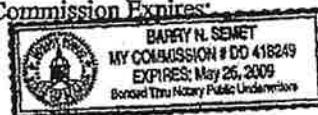

Notary Public, STATE OF ~~FLORIDA~~ CALIFORNIA
Print name: Diego H. Blum
My Commission Expires:

STATE OF FLORIDA)
) ss:
COUNTY OF MIAMI-DADE)



The foregoing instrument was acknowledged before me this 12th day of December, 2007 by Jose G. Alberni, Manager of Master Restaurant Developers, LLC, a Florida limited liability company, on behalf of the company, ☒ who is personally known to me or ☐ who has produced _____ as identification.


Notary Public, STATE OF FLORIDA
Print name: _____
My Commission Expires:



[mrs] W\73920\MEMO0862-of Lease.BNS (12/17/16:31)

STATE OF CALIFORNIA)
) ss:
COUNTY OF LOS ANGELES)

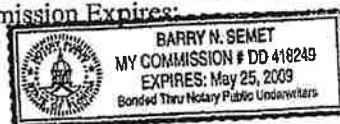
The foregoing instrument was acknowledged before me this ____ day of December, 2007 by Jeff Greene, President of Millenium Holdings, Inc., a California corporation, Manager of 1538 N. Vista, LLC, a California limited liability company, on behalf of the company ☐ who is personally known to me or ☐ who has produced _____ as identification.

Notary Public, STATE OF ~~FLORIDA~~ CALIFORNIA
Print name: _____
My Commission Expires: _____

STATE OF FLORIDA)
) ss:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 12th day of December, 2007 by Jose G. Alberni, Manager of Master Restaurant Developers, LLC, a Florida limited liability company, on behalf of the company, ☒ who is personally known to me or ☐ who has produced _____ as identification.

Notary Public, STATE OF FLORIDA
Print name: _____
My Commission Expires: _____



[mrs] W:\73920\MEMO0862-of Lease.BNS (12/11/7-16:31)

STATE OF FLORIDA)
):ss
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 14th day of March,
2008 by Jose G. Alberní, as Manager of BOR KENDALL, LLC, a Florida limited liability company,
on behalf of the company ☒ who is personally known to me or ☐ who has produced
_____ as identification.



Notary Public, STATE OF FLORIDA

Print Name: _____

My Comm

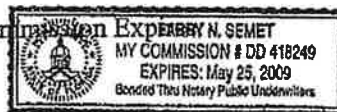


EXHIBIT A

PROPERTY DESCRIPTION (ON THE BORDER)

A portion of Tract A of KV CENTER, according to the plat thereof, as recorded in Plat Book 150 at page 5 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows;

Commence at the Southeast corner of said Tract A; thence run N02°18'55"W along the East line of said Tract A for 33.92 feet; thence run S87°41'05"W, parallel to the South line of the SW1/4 of Section 36, Township 54 South, Range 39 East, Miami-Dade County, Florida, for 20 feet to the Point of Beginning; thence continue S 87° 41'05"W for 48.38; thence run S02°18'55"E for 13.25 feet; thence run S87°41'05"W for 32.83 feet; thence run S02°18'55"E for 5.22 feet; thence run S87°41'05"W for 40.36 feet; thence run N02°18'55"W for 46.43 feet; thence run N87°41'05"E for 11.36 feet; thence run N02°18'55"W for 65.49 feet; thence run N87°41'05"E for 110.21 feet; thence run S02°18'55"E for 93.45 feet to the Point of Beginning.