

## LEASE AGREEMENT RELAX GRILL AT LAKE EOLA

THIS LEASE AGREEMENT is made and entered into to be effective as of the first day of September, 2014, by and between City of Orlando, a Florida municipal corporation, City Hall, 400 S. Orange Ave., Orlando, FL 32801 (Landlord), and Relax Grill at Lake Eola, LLC, a Florida limited liability company, 211 Eola Parkway, Orlando, FL 32801 (Tenant).

### RECITALS

A. Landlord owns and operates Lake Eola Park bounded by Rosalind Avenue, Robinson Street, Eola Drive and Central Boulevard in downtown Orlando, Florida (the "Park").

B. Landlord has previously leased to Tenant the Premises located within the Park for five (5) years on a satisfactory basis and the lease is about to expire.

C. Tenant has requested Landlord to enter into a new lease to which Landlord has agreed, in accordance with the terms and conditions hereof.

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein, and other valuable consideration, the receipt and sufficiency of which are acknowledged, Landlord and Tenant hereby agree as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated into and made a part of this Lease, the same as if fully set forth herein.

2. Premises. Landlord does hereby lease, let and demise unto Tenant and Tenant does hereby lease from Landlord the Premises as described and outlined on **Exhibit "A"** incorporated by reference as attached, containing: (a) the Café, a building containing five hundred fifty (550) square feet, (b) an office, adjacent thereto, containing two hundred fifty-two (252) square feet and (c) an adjacent outdoor open-air seating area containing five thousand nine hundred eighty-four (5,984) square feet for a total of six thousand seven hundred eighty-six (6,786) square feet. Tenant shall have, hold and use the same as Tenant for and during the term of the Lease in accordance with and upon the covenants, agreements, promises and conditions stipulated and agreed upon between the parties as set out in this lease ("Lease").

3. Term of Lease. The parties agree that the term of this Lease shall be three (3) years commencing September 1, 2014 (Commencement Date), and ending at 11:59 PM on August 31, 2017 (Expiration Date), unless extended or terminated as provided herein. In Landlord's sole and absolute discretion and if Tenant has abided by all terms and conditions of this Lease during the initial Lease term, the Lease may be renewed and extended for up to two (2), one-year (1) periods, upon terms mutually agreeable to the parties. If the parties agree to the exercise of both options, Tenant shall be entitled to exclusive possession of the Premises for a total of five (5) years. Notwithstanding anything to the contrary otherwise contained herein, Landlord, at its

convenience and in its sole and absolute discretion, may terminate this Lease upon ninety (90) calendar-days prior written notice to Tenant.

4. Use of Premises.

A. Food Service for On and Off Premises Consumption. Tenant shall use the Premises solely for the operation of an open-air cafe with a take-out window, and also mobile pushcart satellite units to be located at various locations within the Park outside the Premises for the sale of food items, alcoholic beverages for on-Premises consumption, and miscellaneous items. The size, design, color and number of mobile pushcarts are subject to the prior approval of Landlord. Tenant may operate the mobile pushcart units within the Park on a non-exclusive basis during special events. During special events, Tenant must meet or exceed the setup standards established by the promoter of the event in order to utilize the mobile units in any special event area. Beer and wine may be served within the Premises during Tenant's operation of the open-air cafe, subject to compliance with applicable state beverage law and local zoning regulations, and provided that the sale of beer and wine beverages is accessory to the main use of the Premises as an open-air cafe. Tenant shall insure that no beer and wine beverages are served, consumed or possessed outside of the Premises, including that no sales of alcoholic beverages shall be made from Tenant's pushcarts. At a minimum, Tenant shall have all staff including management involved in the service of alcoholic beverages complete an Alcohol Awareness Training Program that complies with State of Florida guidelines. Tenant will provide a copy of its' Alcohol Awareness Training Program to Landlord upon the execution of this Lease.

B. Dog Friendly Dining Program. Tenant may also establish an area on the Premises in compliance with Section 589.897 through 58.899 of the Orlando City Code, and all subsequent amendments thereto, authorizing dogs to be on the Premises in certain areas so long as a permit is issued to the current tenant and appropriate signage is posted, among other things. Tenant agrees to abide by all terms and conditions of the Program, a true copy of which is attached as **Exhibit "B"** and made a part hereof.

5. Revocable License. Landlord hereby also grants Tenant a revocable license ("License") to market refreshment items from the mobile pushcarts within the Park, as may be determined from time to time by Tenant upon Landlord's consent. Landlord shall retain the authority in its sole and absolute discretion to approve each and every aspect of the means, method and manner of marketing refreshments within the Park. Should Tenant fail to abide by all present and any future restrictions or guidelines regarding the License, Landlord may terminate the License without cancelling the Lease or in the alternative declare a default in the Lease for failure to abide by the terms and conditions of the License.

6. Improvements.

A. Open-Air Cafe. Tenant accepts all improvements ("Improvements") located on the Premises, in their "AS IS" condition and acknowledges that the current Improvements are sufficient to engage in the Intended Use of the Premises as described herein.

B. Improvements Restrictions. Tenant shall not construct any Improvements on the Premises or within the Park without the prior written consent of Landlord, which may be withheld for any or no reason. Tenant shall be allowed to make minor cosmetic changes to the Premises without Landlord's approval.

7. Rent.

A. Rent. Tenant shall pay to Landlord, without prior demand and without any deduction or set-off, as rent hereunder, a combination of Base Rent and Percentage Rent, plus applicable Florida state sales tax, as further described hereafter:

1) Base Rent. Tenant shall pay Landlord as Base Rent for the Café containing five hundred fifty (550) square feet Twenty-seven and 85/100 Dollars (\$27.85) per square foot and for the office containing two hundred fifty-two (252) square feet Ten and no/100 Dollars (\$10.00) per square foot the total monthly guaranteed minimum of One Thousand Four Hundred Eighty-six and 28/100 (\$1,486.28) per month beginning on the Commencement Date and continuing on the first day of each and every calendar month thereafter for the remainder of the term of the Lease. Rent for the adjacent outdoor open-air seating area is not separately charged but rather is included in the overall rental consideration to be paid pursuant to this Lease. On each anniversary date of the Commencement Date, Base Rent shall increase five percent (5%) over the amount paid for the month immediately prior thereto.

2) Percentage Rent. For the period beginning on the Commencement Date, in addition to, and not in lieu of Base Rent, Tenant shall also pay to Landlord Percentage Rent of eight percent (8%) of Gross Sales (as defined in **Section 8(B)** below) in excess of the Breakpoint (as defined herein), payable on a monthly basis. The Breakpoint shall be an amount equal to the monthly Base Rent divided by eight (8%), which is calculated as follows.

<u>Monthly Base Rent</u>	<u>Divided By</u>	<u>Breakpoint</u>
\$1,486.28	8%	\$18,575.03

Each year when Base Rent increases the new Breakpoint amount shall likewise be recalculated in the same manner as the original Breakpoint was determined.

B. Rent: General. The following requirements apply to the payment of rent by Tenant.

1) Percentage Rent. Percentage Rent shall be payable by Tenant to Landlord on a monthly basis no later than twenty (20) days after the end of the calendar month for which Percentage Rent is due, simultaneously with Tenant's delivery to Landlord of the monthly Statement of Gross Sales and monthly sales tax report in accordance with **Subsection B.3** below.

2) Gross Sales. “Gross Sales” shall mean the total amount of payments received by Tenant whether in cash or credit, for food, beverage, catering, merchandise and vending sales on or from the Premises and also including all Tenant sales made within the Park, excluding sales tax, employee and complimentary meals for marketing purposes, and tips or service charges actually paid to employees.

3) Statement of Gross Sales. No later than (20) days after the end of the pertinent calendar month, and included with the payment of Percentage Rent, if applicable, Tenant shall deliver to Landlord a written statement certified by Tenant setting forth (i) the amount of Gross Sales made from the Premises and all sales made in other areas within the Park during the preceding calendar month, (ii) all sales tax paid by Tenant for the preceding month, (iii) the type and amount of exclusions from Gross Sales taken in accordance with **Subsection B.2** above, (iv) the aggregate amount of Gross Sales made during the Lease Year, including the previous month, and (v) the total Percentage Rent due for such month. In addition, Tenant shall also submit to Landlord a copy of the monthly sales tax report submitted by Tenant to the state of Florida, Department of Revenue along with the monthly report.

4) Rent Payments. All rental payments shall be made payable to Landlord and mailed or hand-delivered to the Real Estate Division Manager, City of Orlando, 4<sup>th</sup> floor, City Hall, 400 South Orange Avenue, Orlando, Florida 32801.

5) Late Payments. All Monthly Rental payments shall become due and payable without notice or demand on the due date, but the Tenant shall not be deemed to be in default under this Lease unless a payment remains unpaid for more than ten (10) days after its due date. Any Monthly Rent payment made more than five (5) days after due date (due date shall be as of 5:00 p.m. of the first day of the month regardless of holidays or weekends) shall be accompanied by a late charge equal to ten percent (10%) of the amount due. Any late charges becoming due under this paragraph if not paid with the late rent payment shall be added to and become due with the next Monthly Rent payment.

6) Returned Check Fee. If any check for rent or other sums due hereunder received by Landlord is returned by the bank for insufficient funds, in addition to any other right or remedy available to Landlord as a result of such default, Tenant shall pay Landlord a returned check fee of Forty and No/100 Dollars (\$40.00), to reimburse Landlord for the costs and expenses associated with such returned check.

8. Leasehold Tax. In addition to the Monthly Rent, Tenant shall pay to Landlord the Leasehold Tax assessed against the Premises. The Leasehold Tax is an ad valorem tax assessed on the Premises by the Orange County Property Appraiser. The annual Leasehold Tax assessed on the Premises shall be prorated on a monthly basis and paid with the Monthly Rent in the amount shown below and held in a separate account by Landlord for payment of Tenant’s tax

obligation at such time prescribed by the Orange County Tax Collector. The amount collected is an estimate of the taxes owed by Tenant and is subject to adjustment based upon the actual Leasehold Tax due. In the event the amount of Leasehold Tax paid by Tenant to Landlord exceeds the actual tax liability, the excess tax paid by Tenant may be refunded to Tenant or retained for the succeeding year tax liability, whichever is deemed appropriate exclusively by Landlord. In the event the amount of Leasehold Tax paid by Tenant to Landlord is less than the actual tax liability, Tenant shall pay the balance due to Landlord no later than ten (10) calendar days from Tenant's receipt of written notice from Landlord that the balance is due. The prorated Leasehold Tax is calculated as follows, but is subject to change based upon the Property Appraiser's annual assessment:

$$\$2,040.00 \text{ (Estimated leasehold tax liability)} \div 12 \text{ months} = \$170.00 \text{ per month}$$

9. Security Deposit. A Security Deposit in the amount of Two Thousand and No/100 Dollars (\$2,000.00) has been paid by Tenant to Landlord at the time of the execution of this Lease. This Security Deposit shall be held by Landlord as security for the performance of all obligations of Tenant under this Lease. While Landlord holds the Security Deposit, Landlord shall have no obligation to pay interest thereon, unless required to do so by Florida law, and shall have the right to commingle the Security Deposit with Landlord's other funds. Landlord shall have thirty (30) days after such time when it should be paid, to return the Security Deposit or notify Tenant of Landlord's intention to impose a claim against the Security Deposit for damages, unpaid rent or other amounts due under the Lease. However, if the determination of any amount to be paid by Tenant to Landlord, or of Tenant's pro rata share of real estate taxes as set forth in this Lease, or the like, is not available at the expiration or earlier termination of the Lease, Landlord may retain such portion of the Security Deposit as Landlord believes in the exercise of Landlord's good faith judgment is an appropriate reserve against such future liability of Tenant and return only the balance of such deposit pending the final determination and payment of all such amounts owed by Tenant to Landlord.

10. Hours of Operation. Beginning on the Commencement Date of the Lease and continuing throughout the Term, Tenant shall actively and continuously conduct its business upon one hundred percent (100%) of the Premises for at least between the hours of 11:30 a.m. and 10 p.m., seven (7) days a week, including holidays ("**Minimum Business Hours**"). In no event shall Tenant be open between the hours of 12 A.M. and 6 A.M. Tenant shall also post the hours the Premises will be open for business. Interruption of Tenant's business because of any act of war, strike, fire, the elements, governmental action, or other cause beyond the reasonable control of Tenant shall not constitute a default under this section, but no interruption of business shall affect Tenant's responsibility to pay any form of rent due under this Lease. Tenant shall conduct its business in strict conformance with any rules and regulations promulgated by Landlord from time to time ("Rules and Regulations").

11. Personal Property, Furniture and Equipment. Tenant shall also furnish and install, at its sole cost and expense, any additional personal property, furniture and equipment reasonably necessary for the operation of the café, including, but not limited to kitchen equipment and outdoor dining tables, chairs, and umbrellas (PPF & E). Tenant may use any of Landlord's furniture and equipment currently existing on the Premises, provided that Tenant returns such

furniture and equipment to Landlord in similar working order at the expiration or termination of the Lease, normal wear and tear excepted. Tenant shall keep the PPF&E in good condition and repair, normal wear and tear excepted. The PPF & E which Tenant provides for use in the Premises shall remain the property of Tenant and at the expiration or earlier termination of the Lease, Tenant shall remove Tenant's PPF & E from the Premises and shall repair any damage to the Premises resulting from such removal. If Tenant's PPF & E are not removed within three (3) days after the end of the Lease, such PPF & E shall be considered abandoned and automatically become the property of Landlord. All equipment, whether owned by Tenant or Landlord, which is affixed to the Premises, including, but not limited to, walk-in refrigeration and hood ventilation systems, shall remain on the Premises upon the expiration or termination of the Lease, as Landlord's property.

12. Repairs and Maintenance. Landlord shall be responsible for the repair and maintenance of the grounds and landscaping surrounding the Premises. Tenant shall be responsible for the repair and maintenance of the interior and exterior of the building on the Premises, including, but not limited to, the roof, building foundations, exterior walls, plumbing, heating, ventilation and air conditioning systems, electrical, doors, windows, plate glass, toilets, faucets, lighting, fixtures, carpet, appliances, and food and beverage equipment. Tenant shall maintain such items and the Premises in a good, safe and sanitary condition throughout the term of the Lease, normal wear and tear excepted. Tenant shall insure that no noxious odors interfere with the use and enjoyment of the Park by the public.

Tenant shall establish and perform preventative routine maintenance programs on its food service equipment in accordance with manufacturers' recommendations. In addition, Tenant shall install and maintain fire extinguishers, sprinkler systems and other fire protection devices as may be required from time to time by any agency having jurisdiction of such matters, or the insurance underwriters insuring the building.

13. Landlord Inspection. Landlord shall be entitled to inspect the Premises and Improvements at any time upon reasonable notice to Tenant and provide Tenant with a written list of items requiring repair by Tenant. Tenant shall have thirty (30) days from its receipt of the list to repair all items on the list, unless the nature of such repair is such that it cannot be accomplished within thirty (30) days, in which case Tenant shall be allowed a reasonable period of time to make such repairs, provided Tenant promptly and diligently pursues such repairs. Tenant's failure to repair the items within such time period shall be a breach of this Lease. The failure of Landlord to provide a list of repairs to Tenant shall not relieve Tenant of its maintenance and repair obligations.

14. Utilities. Tenant shall be responsible for arranging and paying for the cost of all utilities provided to the Premises, including, but not limited to, water, gas, electric, telephone and refuse collection service. All utilities supplied to the Premises shall be separately metered from the utilities supplied to the Park.

15. Janitorial Service. Tenant shall provide trash receptacles and janitorial service to the Premises at its sole expense. At least twice each day, Tenant will police the Premises to remove

all trash and other debris either generated by the cafe operations or others, and place it in Landlord's dumpsters.

16. Pest Control. Tenant, at its sole expense, shall engage exterminators to control vermin and pests on a monthly basis. Such extermination services shall be supplied in all areas where food is prepared, dispensed or stored and in all areas where trash is collected and deliveries are made.

17. Grease Traps and Recycling. Tenant shall comply with Landlord's Oil and Grease Management Program per Section 30.15 of the Orlando Landlord Code (Code). Tenant shall be responsible for the professional removal of grease to avoid spillage and for grease recycling of shortening. Tenant shall be responsible for providing grease traps and having them pumped in compliance with Section 30.15 of the Code.

18. Signage. Tenant may install appropriate signage within the Premise to identify the café. Landlord shall retain the right to approve Tenant's naming of the cafe. All signage is subject to the sign regulations of Landlord and the Downtown Development Board (DDB) (if applicable). Since the Premises is public property owned by Landlord, political campaign signs are prohibited on the Premises pursuant to Section 64.252 of the Code.

19. Events of Default. The occurrence of one or more by Tenant of the following shall constitute a material event of default under this Lease:

A. Failure to pay Monthly Rent within ten (10) days of its due date, without notice from Landlord;

B. Failure to make any other payment required of Tenant hereunder, within ten (10) days after written notice that it is due;

C. Failure to perform any other covenant contained herein on its part to be observed, for ten (10) days after receipt of written notice from Landlord to Tenant of such breach; provided, however, that if the nature of Tenant's noncompliance is such that more than ten (10) days are reasonably required for its cure, Tenant shall not be deemed to be in default if Tenant commenced such cure within the ten (10) day period and thereafter diligently pursues such cure to completion;

D. Failure to conduct business during the Minimum Business Hours;

E. Being made (i) a "debtor" as defined in 11 U.S.C. §101 or any successor statute thereto [unless, in the case of a petition filed against Tenant, and the same is not dismissed within sixty (60) days], (ii) having a trustee or receiver appointed to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or (iii) suffering an attachment, execution or other judicial seizure of substantially all of its assets located at the Premises or of its interest in this Lease, where such seizure is not discharged within thirty (30) days; or

F. Vacation or abandonment of the Premises including any failure to occupy the Premises for a continuous period of twenty (20) days or more, whether or not the rent is paid.

20. Default Remedies. In the event Tenant fails to cure any default within any applicable time period, without further notice Landlord may elect to take any of the following actions:

A. Terminate this Lease and enter into the Premises, or any part thereof, pursuant to and in accordance with applicable law and expel Tenant, or any person occupying the same in or upon the Premises, and repossess and enjoy the Premises;

B. Enter into possession of the Premises as agent of Tenant and relet the Premises without any obligation to do so, applying any rent received from new tenants on the balance due under this Lease, and in such event, Tenant shall be responsible for no more than the balance then due, should a balance exist, plus all Landlord's fees, costs and expenses in taking such actions;

C. Declare the entire balance of the rent due and payable forthwith and maintain a distress proceeding, chattel lien foreclosure proceeding, or other proceeding for the recovery of the rent due and have in aid thereof, with or without notice, the appointment of a receiver, issuance of a writ of injunction, or such other remedies as may be necessary to secure the relief sought; and

D. Exercise in addition to the foregoing any and all other rights and remedies according to the laws of the State of Florida.

21. Indemnification. Tenant shall indemnify Landlord, its elected and appointed officials, officers, agents, employees and hold them harmless from any suits, actions, damages, liability, and expenses in connection with loss of life, bodily or personal injury, property damage or otherwise arising from or out of any occurrence in, on, at, or from the Premises, or the occupancy or use by Tenant of the Premises, the Park, sidewalks adjacent thereto or any part thereof or occasioned wholly or in part by any act or omission of Tenant, its agents, contractors, employees, servants, invitees, licensees, concessionaires and any other person or entity for whose acts Tenant may be responsible. This indemnity and hold harmless agreement shall include indemnity resulting from allegations of Landlord's own negligent acts, and against all costs, expenses, and liabilities, including attorney's fees incurred by Landlord, its elected and appointed officials, officers, agents, employees in connection with any claim, action, trial, appellate, bankruptcy court or probate proceedings related thereto. This indemnity and hold harmless agreement shall include indemnity resulting from and against all costs, expenses, and liabilities, including attorney's fees incurred by Landlord, its elected and appointed officials, officers, agents, employees in connection with any claim, action, trial, appellate, bankruptcy court or probate proceedings related thereto. If any such action or proceeding is instituted against Landlord, its elected and appointed officials, officers, agents, employees, Tenant, upon written notice from Landlord, will defend such action or proceeding by counsel approved in writing by Landlord, such approval not to be unreasonably withheld or delayed.



## 22. Insurance

A. Tenant, at its own expense, shall keep in force and at all times maintain during the term of this Lease the following types and amounts of insurance:

### 1. Property Insurance.

Property Insurance, including fire and extended coverage, insuring against damage caused by fire, vandalism, wind, and water, for the replacement cost of the Improvements located on the Premises, with a maximum deductible of Ten Thousand and No/100 Dollars (\$10,000.00).

### 2. Commercial General Liability Insurance:

Tenant agrees to maintain in full force and effect from the date upon which Tenant first enters the Premises for any reason and throughout the term of this Lease, and thereafter so long as Tenant occupies any part of the Premises, a nondeductible policy of commercial general liability insurance providing coverage for bodily injury (or death), property damage and liquor liability, with an insurer approved by Landlord. The minimum single limit coverage for bodily injury (or death) and property damage shall be One Million Dollars (\$1,000,000) per occurrence and an annual aggregate of Two Million Dollars (\$2,000,000). Failure to provide evidence of the required coverage within one (1) day after demand shall be a material breach of this Lease.

### 3. Workers' Compensation/Employer Liability Insurance:

Full and complete Workers' Compensation coverage as required by State of Florida law.

### 4. Automobile Liability Insurance:

Automobile liability insurance coverage in the minimum amount of One Million Dollars (\$1,000,000) per occurrence for BI/PD, including hired/non-owned vehicles regardless of number of passengers transported.

### 5. Property Insurance:

Replacement cost coverage for all personal property owned or entrusted to Tenant.

### 6. Liquor liability insurance:

Liquor liability insurance shall be maintained in the amount of One Million Dollars (\$1,000,000).

B. Landlord shall be named as an Additional Insured on each policy required hereunder, except worker's compensation.

C. Tenant shall provide Landlord with Certificate(s) of Insurance on all policies of insurance and renewals thereof on an annual basis in a form(s) reasonably acceptable to Landlord.

D. Landlord reserves the right to modify any aspect of the insurance requirements, including the addition of new types of coverage, as the result of reasonable and prudent risk management review of the activities upon or associated with the Premises.

E. Landlord shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) calendar days prior to the effective date of said action.

F. All insurance policies shall be primary and issued by companies with a Financial Rating of "A-" or better and a Financial Size Category of "Class V" or higher according to the most current edition of Best's Insurance Reports, which are licensed and authorized to do business under the laws of the State of Florida.

G. Landlord and Tenant shall have no liability to one another, or to any insurer, by way of subrogation or otherwise, on account of any loss or damage to their respective properties, the Premises or the contents thereof, regardless of whether such loss or damage is caused by the negligence of Landlord or Tenant, arising out of any of the perils or casualties insured against by the property insurance policies carried, or required to be carried, by the parties pursuant to this Lease. The insurance policies obtained by Landlord and Tenant pursuant to this Lease shall permit waivers of subrogation, which the insurer may otherwise have against the non-insuring party. In the event the policy or policies do not allow waiver of subrogation prior to loss, either Landlord or Tenant shall, at the request of the other party, deliver to the requesting party a waiver of subrogation endorsement in such form and content as may reasonably be required by the requesting party or its insurer. For purposes of interpreting this subrogation provision, the terms "Landlord" and "Tenant" shall include elected and appointed officials, officers, agents, employees, contractors, subtenants, servants, licensees, concessionaires and invitees, any of whom may be responsible for any loss.

H. Landlord may waive or amend the insurance coverage requirements contained herein.

I. The procurement of the insurance coverage as set forth herein shall not constitute a waiver of Landlord's sovereign immunity limits.

## 23. Compliance With Laws

A. Tenant shall comply with all applicable present and future federal, state, and local laws, ordinances, rules, and regulations relating to the operation of an open-air cafe pursuant to this Lease, including, but not limited to, the Florida Building Code (FBC), the Americans With Disabilities Act (ADA), and state beverage law. The payment of any penalties or fines arising out of or in any way connected with the violation of, or non-compliance with, the foregoing shall be Tenant's responsibility.

B. Landlord shall comply with all applicable laws, rules and regulations imposed upon it as the owner of the Premises.

C. This Lease is contingent upon Tenant obtaining all certificates, permits, and other approvals that may be required by any federal, state, or local authority for the operation of an open-air café. The payment of any penalties or fines arising out of or in any way connected with the violation of, or non-compliance with, the foregoing shall be Tenant's responsibility.

24. Taxes. The payment of all applicable real estate and personal property taxes relating to the Premises and any taxes on the Leasehold, Improvements and PPF&E, shall be the sole responsibility of Tenant, subject to any exemptions from the payment of such taxes under Florida Law. Landlord will be responsible for any stormwater utility associated with the Premises.

25. Damage or Destruction of Premises. If the Premises or any portion thereof are destroyed or damaged so as to materially hinder effective use of the Premises as an open-air café, and such destruction or damage is not caused in whole or part by Tenant, its officers, employees, invitees or anyone for whom Tenant is liable, then Tenant may elect to either (1) repair or reconstruct the Premises at its sole cost and expense, or (2) terminate this Lease by giving thirty (30) days written notice to Landlord.

In the event that Tenant elects to terminate the Lease, it shall promptly remove Tenant's PPF&E from the Premises. Regardless of whether the damage or destruction is caused in whole or part by Tenant, its officers, employees, invitees or anyone for whom it may be liable, if Tenant chooses not to repair or reconstruct the open-air cafe, then Landlord, as a named insured, shall retain any insurance proceeds payable as a result of such damage or destruction under policies required by **Section 23** of this Lease. Landlord shall have no obligation to reconstruct or repair damage to the Premises. Upon termination of the Lease. Tenant shall be entitled to the reimbursement of any prepaid Rent on a monthly pro-rata basis.

Except as provided above, Landlord shall have no obligation to reconstruct damage to the Premises that materially hinders effective use of the Premises as a cafe. If Tenant exercises its option to repair or reconstruct the Premises, it shall do so in a manner that restores the Premises to its structural integrity and capacity prior to such damage or destruction. In addition, any repair or reconstruction is subject to the approval of Landlord. Upon such repair or reconstruction of the Premises by Tenant, Tenant shall be entitled to an abatement of the rent due during the reconstruction period not to exceed one hundred eighty (180) calendar days. In the event of such repair or reconstruction, Landlord shall retain title to the Premises as repaired or reconstructed.

26. Condemnation. In the event the Premises is taken by eminent domain, this Lease shall automatically terminate as of the date title to the Premises vests in the condemning authority. Tenant shall not be entitled to a prorated portion of any award paid for the taking by the governing authority. Tenant hereby expressly waives any right or claim to any portion thereof and all damages, whether awarded, as compensation for diminution in value of the Improvements or Premises, shall belong to Landlord. Landlord will inform Tenant of the commencement of any eminent domain proceedings by any governmental authority.

27. Advertising and Promotion. Tenant shall not use Landlord's name or logo in advertising or promoting the café without Landlord's prior, written consent; provided however, that Tenant may use the name and location of Lake Eola Park in such advertising without Landlord's prior consent.

28. Books and Records. Tenant shall maintain an original set of books and records of sales, receipts and inventory regarding operations at the Premises and the Park, all in accordance with generally accepted accounting principles. Such books and records shall be of the type customarily used in this type of operation. Tenant shall, on reasonable demand, make available to Landlord all records; books of account and statements (which records shall include all sales tax reports) maintained with respect to its open-air cafe operations at the Premises. Landlord shall have the right to audit Tenant's Books at Landlord's sole expense, by Landlord's internal audit department or auditors selected by Landlord. If such audit shows a deficiency in reportable Gross Receipts for any period covered, in excess of 2.5 %, the amount thereof plus interest at the highest legally allowable amount and the cost of the audit (not to exceed Ten Thousand and No/100 Dollars (\$10,000) shall be paid by Tenant to Landlord upon written demand thereof.

29. Encumbrance Of Tenant's Interest. Tenant may not encumber in any manner Tenant's interest in the Premises.

30. Estoppel Certificate. Either party shall at any time and from time to time upon not less than ten (10) days prior request by the other party deliver to the requesting party a statement in writing certifying whether (a) the Lease is in full force or has been modified (if there have been modifications, that the Lease is in full force as modified and identifying the modifications); (b) Rent and other charges have been paid; (c) the party requesting the Estoppel Certificate is in default under any provisions of the Lease; and (d) such other matters as the party may reasonably request.

31. Notices. All notices, requests, demands, and other communications required or given hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, to the following addresses:

If to Landlord, to:	Real Estate Division Manager City of Orlando 400 S. Orange Avenue Seventh Floor Orlando, Florida 32801
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Office No. 407-246-2653  
Cell No. 407-256-2247

AND

Director  
Families, Parks, and Recreation  
City of Orlando  
400 S. Orange Avenue  
Orlando, Florida 32801

With a copy to: City Clerk  
City of Orlando  
400 S. Orange Avenue  
Orlando, Florida 32801

If to Tenant, to: Relax Grill at Lake Eola  
Ivy Crowell, Manager  
PO Box 300933  
Fern Park, FL 32730  
Office No. 407-425-8440  
Cell No. 321-356-4684

32. Assignment/Subletting. Neither Tenant nor Tenant's legal representatives or successors in interest by operation of law or otherwise may effectuate a Transfer of this Lease, without Landlord's written consent, which may be withheld in Landlord's sole discretion. For purposes of this Lease, "Transfer" shall mean any of the following: (a) an assignment or sublease of this Lease; (b) any transfer of control of Tenant, which shall be defined as any issuance or transfer of stock in any corporate tenant or subtenant or any interest in any noncorporation entity tenant or subtenant, by sale, exchange, merger, consolidation, option agreement, operation of law, or otherwise, or creation of new stock or interests, by which an aggregate of fifty percent (50%) or more of Tenant's stock or equity interests shall be vested in one or more parties who are not stockholders or interest holders as of the Commencement Date, or any transfer of the power to direct the operations of any entity (by equity ownership, contract, or otherwise), to one or more parties who are not stockholders or interest holders as of the Commencement Date, however accomplished, and whether in a single transaction or in a series of related or unrelated transactions. In other words, for example if an aggregate of forty-nine percent (49%) of the stock or equity interest in or control of Tenant is transferred to someone who is not an owner on the Commencement Date and thereafter in a separate transaction one percent (1%) is transferred to someone who was not an owner on the Commencement Date, that one percent (1%) transfer would be a "Transfer" thereby requiring Landlord's consent, which may be withheld in its sole and absolute discretion. The joint and several liability of Tenant and any successor in interest of Tenant (by assignment or otherwise) under this Lease shall not in any way be affected by any agreement that modifies any of the rights or obligations of the parties under this Lease or any waiver of, or failure to enforce, any obligation under this Lease. If Tenant requests Landlord to consent to any Transfer, Tenant shall pay to Landlord, simultaneously with such request (which

request must be in writing and provide complete information detailing the proposed transferee and the terms of the proposed Transfer), an administrative fee of Two Hundred Fifty and No/100 Dollars (\$250.00) and will reimburse Landlord for all of Landlord's reasonable attorneys' fees and costs associated with Landlord's consideration of such transfer. **Any Transfer by Tenant in violation of this Section shall be void.**

33. Liens. Tenant shall insure that no liens or claims of lien are recorded against the Premises by any party, and the recording of any lien, unless removed within thirty (30) days of filing, shall be a default by Tenant of this Lease.

34. Landlord's Lien. In addition to any rights that may be given Landlord by Florida law, Tenant hereby grants to Landlord a security interest in and a lien upon any and all furniture, fixtures, equipment, goods and other personal property of any kind in which Tenant has an interest that is now or hereafter located on the Premises, as security for the payment of all rents and other sums to be paid by Tenant to Landlord hereunder, and for the purpose of securing the performance of Tenant's duties and obligations in accordance with the terms of this Lease.

35. No Brokerage Commission. Tenant represents and warrants that it has had no dealings with any broker or leasing agent in connection with the negotiation or execution of this Lease other than Landlord's broker, if any. In the event any broker or leasing agent other than Landlord's broker, if any, shall make a claim for a commission or fee in connection with the negotiation or execution of this Lease, Tenant shall be responsible for the payment thereof, and Tenant agrees to hold Landlord harmless from and indemnify Landlord against any such claim or liability.

36. Radon. Radon is a naturally occurring radioactive gas that, when 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 the county public health unit.

37. Unlawful Discrimination. Tenant covenants and agrees that no person shall be unlawfully discriminated against in the use and operation of the Premises.

38. No Partnership or Joint Venture. Nothing contained in this Agreement shall constitute or be construed to be or create a partnership or joint venture between Landlord and Tenant.

39. Landlord's Exculpation. Anything to the contrary contained in this Lease notwithstanding, Landlord's elected and appointed officials, officers, agents, employees, representatives, successors and assigns, shall have absolutely no corporate or personal liability with respect to the performance of any of the terms, covenants, conditions and provisions of this Lease. Such exculpation of liability shall be absolute and without exception whatsoever.

40. Landlord's Limitation of Liability. Tenant is a Florida municipal corporation whose limits of liability are set forth in Section 768.28, Florida Statutes and nothing herein shall be

construed to extend the liabilities of Tenant beyond that provided in Sections 768.28, Florida Statutes. Nothing herein is intended to serve as a waiver of Tenant's sovereign immunity under Section 768.28, Florida Statutes. Nothing herein shall inure to the benefit of any third party for the purpose of allowing any claim otherwise barred by sovereign immunity or operation of law.

41. Waiver. Failure on the part of Landlord or Tenant to complain of any act or failure to act on the part of the other shall never be a waiver of any respective rights hereunder; however, the foregoing shall not apply to provisions of this Lease, where a right of Tenant is dependent upon notice to be given within a specified period. Further, no waiver at any time of any of the provisions hereof by Landlord or Tenant shall be construed as a waiver of any of the other provisions hereof, and a waiver at any time of the provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions. No payment by Tenant, or acceptance by Landlord, of a lesser amount than shall be due from Tenant to Landlord shall be treated otherwise than as a payment on account. The acceptance by Landlord of a check for a lesser amount with an endorsement or statement thereon, or upon any letter accompanying such check, that such lesser amount is payment in full, shall be given no effect, and Landlord may accept such check without prejudice to any other rights or remedies which Landlord may have against Tenant.

42. Binding Effect. Except as otherwise expressly provided, the terms hereof shall be binding upon and inure to the benefit of the heirs, personal representatives, successors and assigns, respectively, of Landlord and Tenant. This reference to successors and assigns of Tenant is not intended to constitute Landlord's consent to assignment by Tenant, but has reference only to those instances in which Landlord may give consent to a particular assignment.

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

44. Miscellaneous.

A. Landlord represent to Tenant as does Tenant likewise represent to Landlord that it has full right, power, and authority to execute this Lease.

B. This Lease constitutes the entire agreement and understanding of the parties and supersedes all offers, negotiations, and other agreements of any kind. There are no representations or understandings of any kind not set forth herein.

C. This Lease shall be construed in accordance with the laws of the State of Florida. The location for the settlement of any disputes arising out of this Lease shall be Orange County, Florida.

D. This Lease may be amended or modified at any time during the term of the Lease by the mutual, written agreement of the parties.

This Lease has been executed by the parties as of the date set forth above.

**CITY OF ORLANDO, FLORIDA**

By: \_\_\_\_\_  
Mayor/Pro Tem

Executed on \_\_\_\_\_, 2014.

Attest:

\_\_\_\_\_  
Alana C. Brenner, City Clerk

APPROVED AS TO FORM AND LEGALITY  
for the use and reliance of the City of Orlando,  
Florida, only.

\_\_\_\_\_, 2014.

\_\_\_\_\_  
Assistant City Attorney



Tenant

Relax Grill at Lake Eola, LLC, a Florida limited liability company

By: \_\_\_\_\_

Name: Ivy Crowell

Title: Manager

Executed on \_\_\_\_\_, 2014.

Witnesses:

(1) Sign: \_\_\_\_\_

Print Name: \_\_\_\_\_

(2) Sign: \_\_\_\_\_

Print Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by \_\_\_\_\_, the Manager of Relax Grill at Lake Eola, LLC, a Florida limited liability company. He/she is personally known to me or has produced a valid Driver's License as identification.

\_\_\_\_\_  
Notary Public:  
Commission Expires:  
**(SEAL)**



## EXHIBIT "B"

ORLANDO CITY CODE

§ 58.897

- (4) Utilize a licensed pet waste disposal company or State approved pet waste disposal system for the disposal of all pet waste.
- (c) A pet boarding facility may include an attached outdoor exercise yard for animal exercise and recreation pursuant to the following regulations:
  - (1) Such yard shall be permitted if located at least 500 feet from any residential zoning district or any residential area of a planned development. Such yard may be located less than 500 feet from a residential zoning district or a residential area of a planned development pursuant to a Conditional Use Permit if it is demonstrated that the lesser separation distance will not adversely affect surrounding properties.
  - (2) Such yard shall be fully enclosed by a masonry wall or wooden fence at least six (6) feet in height.
  - (3) No animal shall be permitted in such yard between the hours of 7:00 p.m. and 7:00 a.m.
  - (4) No more than four (4) animals shall be permitted in the exercise yard concurrently.
  - (5) No animal may be kept in the yard for more than two (2) hours per day.
  - (6) The yard shall be fully enclosed by a masonry or wooden fence of at least six (6) feet in height.
  - (7) Yard waste, including solid excrement, shall be removed daily.  
(Ord. of 1-24-2005, § 11, Doc. #050124909)

### 4U. DOG FRIENDLY DINING

#### **Sec. 58.897. Purpose and Intent; Program Created; Definitions.**

(a) The purpose and intent of this part is to implement the pilot program established by section 509.223, Florida Statutes (2006), by permitting public food service establishments within the City of Orlando, Florida, subject to the terms and contained herein, to become exempt from certain portions of the United States Food and Drug Administration Food Code, as amended from time to time, and as adopted by the State of Florida Division of Hotels and Restaurants of the Department of Business and Professional Regulation, in order to allow patrons' dogs within certain designated outdoor portions of their respective establishments.

(b) Pursuant to section 509.233(2), Florida Statutes, there is hereby created in the City of Orlando, Florida, a local exemption procedure to certain provisions of the United States Food and Drug Administration Food Code, as amended from time to time, and as adopted by the State of Florida Division of Hotels and Restaurants of the Department of Business and Professional Regulation, in order to allow patrons' dogs within certain designated outdoor portions of public food service establishments, which exemption procedure may be known as the City of Orlando Dog Friendly Dining Program.

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CD 58-158.1

- (c) As used in Part 4U, hereof:
- a. "Division" means the Division of Hotels and Restaurants of the State of Florida Department of Business and Professional Regulation.
  - b. "Dog" means an animal of the subspecies *Canis lupus familiaris*.
  - c. "Outdoor area" means an area adjacent to a public food service establishment that is predominantly or totally free of any physical barrier on all sides and above.
  - d. "Patron" has the meaning given to "guest" by section 509.013, Florida Statutes.
  - e. "Public food service establishment" has the meaning given it by section 509.013, Florida Statutes.
  - f. "Zoning Official" has the meanings given it by Chapters 65 and 66, Orlando City Code. (Ord. of 10-16-2006, § 2, Doc. #0610161010)

**Sec. 58.898. Permit Required; Submittals.**

(a) In order to protect the health, safety, and general welfare of the public, a public food service establishment is prohibited from having any dog on its premises unless it possesses a valid permit issued in accordance with this part.

(b) Applications for a permit under this part shall be made to the Zoning Official, on a form provided for such purpose by the Zoning Official, and shall include, along with any other such information deemed reasonably necessary by the Zoning Official in order to implement and enforce the provisions of this part, the following:

- a. The name, location, and mailing address of the subject public food service establishment.
- b. The name, mailing location, and telephone contact information of the permit applicant.
- c. A diagram and description of the outdoor area to be designated as available to patrons' dogs, including dimensions of the designated area; a depiction of the number and placement of tables, chairs, and restaurant equipment, if any; the entryways and exits to the designated outdoor area; the boundaries of the designated area and of any other areas of outdoor dining not available for patrons' dogs; any fences or other barriers; surrounding property lines and public rights-of-way, including sidewalks and common pathways; and such other information reasonably required by the Zoning Official. The diagram or plan shall be accurate and to scale but need not be prepared by a licensed design professional.
- d. A description of the days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor area.
- e. All application materials shall contain the appropriate division issued license number for the subject public food service establishment.

(Ord. of 10-16-2006, § 2, Doc. #0610161010)

**Sec. 58.899. General Regulations; Cooperation; Enforcement.**

(a) In order to protect the health, safety, and general welfare of the public, and pursuant to section 509.233, Florida Statutes, all permits issued pursuant to this part are subject to the following requirements:

- a. All public food service establishment employees shall wash their hands promptly after touching, petting, or otherwise handling any dog. Employees shall be prohibited from touching, petting, or otherwise handling any dog while serving food or beverages or handling tableware or before entering other parts of the public food service establishment.
- b. Patrons in a designated outdoor area shall be advised that they should wash their hands before eating. Waterless hand sanitizer shall be provided at all tables in the designated outdoor area.
- c. Employees and patrons shall be instructed that they shall not allow dogs to come into contact with serving dishes, utensils, tableware, linens, paper products, or any other items involved in food service operations.
- d. Patrons shall keep their dogs on a leash at all times and shall keep their dogs under reasonable control.
- e. Dogs shall not be allowed on chairs, tables, or other furnishings.
- f. All table and chair surfaces shall be cleaned and sanitized with an approved product between seating of patrons. Spilled food and drink shall be removed from the floor or ground between seating of patrons.
- g. Accidents involving dog waste shall be cleaned immediately and the area sanitized with an approved product. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor area.
- h. At least one sign reminding employees of the applicable rules, including those contained in this part, and those additional rules and regulations, if any, included as further conditions of the permit by the Zoning Official, shall be posted in a conspicuous location frequented by employees within the public food service establishment. The mandatory sign shall be not less than eight and one-half inches in width and eleven inches in height (8½ x 11) and printed in easily legible typeface of not less than twenty (20) point font size.
- i. At least one sign reminding patrons of the applicable rules, including those contained in this part, and those additional rules and regulations, if any, included as further conditions of the permit by the Zoning Official, shall be posted in a conspicuous location within the designated outdoor portion of the public food service establishment. The mandatory sign shall be not less than eight and one-half inches in width and eleven inches in height (8½ x 11) and printed in easily legible typeface of not less than twenty (20) point font size.

- j. At all times while the designated outdoor portion of the public food service establishment is available to patrons and their dogs, at least one sign shall be posted in a conspicuous and public location near the entrance to the designated outdoor portion of the public food service establishment, the purpose of which shall be to place patrons on notice that the designated outdoor portion of the public food service establishment is currently available to patrons accompanied by their dog or dogs. The mandatory sign shall be not less than eight and one-half inches in width and eleven inches in height (8½ x 11) and printed in easily legible typeface of not less than twenty (20) point font size.
  - k. Dogs shall not be permitted to travel through indoor or undesignated outdoor portions of the public food service establishment, and ingress and egress to the designated outdoor portions of the public food service establishment shall not require entrance into or passage through any indoor or undesignated outdoor portion of the public food service establishment.
- (b) A permit issued pursuant to this part shall not be transferred to a subsequent owner upon the sale or transfer of a public food service establishment, but shall expire automatically upon such sale or transfer. The subsequent owner shall be required to reapply for a permit pursuant to this part if such owner wishes to continue to accommodate patrons' dogs.
- (c) In accordance with section 509.233(6), Florida Statutes, the Zoning Official shall accept and document complaints related to the Dog Friendly Dining Program within the City of Orlando, Florida, and shall timely report to the division all such complaints and the City's enforcement response to such complaint. The Zoning Official shall also timely provide the division with a copy of all approved applications and permits issued pursuant to this part.
- (d) Any public food service establishment that fails to comply with the requirements of this part shall be guilty of violating this part of the Orlando City Code and shall be subject to any and all enforcement proceedings consistent with the applicable provisions of the Orlando City Code and general law. Each day a violation exists shall constitute a distinct and separate offense.
- (Ord. of 10-16-2006, § 2, Doc. #0610161010)

**PART 5. ACCESSORY USES AND STRUCTURES**

**5A. GENERAL REQUIREMENTS**

**Sec. 58.900. Building Permit Required.**

No accessory use or structure shall be developed without a Building Permit having been issued in accordance with the requirements of Chapter 65, Part 2C.

## LEASE GUARANTY

In consideration for Landlord's leasing the Premises to Tenant, the undersigned Guarantors (sometimes here collectively referred to as "Guarantor") guarantee the performance of all Tenants under the lease ("Lease") on the following terms and conditions:

1. Description of Lease Guaranteed. Guarantor hereby guaranties the following described lease:

Landlord(s): City of Orlando.

Tenant(s): Relax Grill at Lake Eola, LLC, a Florida limited liability company.

Property: A part of the property located at Lake Eola Park , Orlando, FL 32801.

Commencement Date: September 1, 2014. Initial Expiration Date: August 31, 20117, with two (2), one (1) -year renewal options.

Monthly Base Rent: One Thousand Four Hundred Eighty-six and 28/100 Dollars (\$1,486.28) plus Percentage Rent and other amounts due under the Lease.

2. Guaranty of Guaranteed Obligations. Guarantor hereby unconditionally and irrevocably guarantees to Landlord:

(a) full and punctual payment when due of all rent for the original and all extended terms of the Lease, as may be provided for under the Lease to the Landlord by Tenant, and by any successor lessee permitted under the Lease; and

(b) payment by Tenant of all other obligations coming due under the Lease for the initial and all extended terms of the Lease, including but not limited to taxes, insurance, utilities, license fees and any other costs incurred for the Premises. The obligations of Tenant described in paragraph (a), above, and this paragraph (b) are herein referred to as the "Guaranteed Obligations".

3. Scope and Extent of Guaranty. Guarantor shall be primarily liable, jointly and severally, with Tenant and any other guarantor of Tenant's obligations in respect to the payment of the Guaranteed Obligations. Guarantor's agreement to guarantee the Guaranteed Obligations is expressly subject to the right of Guarantor to assert any defenses (whether substantive or procedural), set offs and counterclaims that Tenant could itself assert against Landlord under the Lease with the same force and effect as if Guarantor had executed the Lease directly, which right is hereby reserved by Guarantor (except as expressly set forth to the contrary in **Section 5** below). Guarantor hereby waives all notices of protest, dishonor, and notices of acceptance of this Guaranty, and waives all notices of existence, creation, or incurring of new or additional obligations from Tenant to Landlord under the Lease. Guarantor acknowledges that, under the terms of the Lease, Landlord may terminate the Lease or Tenant's right of possession thereunder as a result of a Tenant Default under the Lease and, upon any such termination. Guarantor agrees that this Guaranty is intended to continue in full force and effect following the termination of the Lease or the termination of Tenant's right of possession thereunder as a result of a Tenant Default under the Lease, and that Guarantor shall (except as may be otherwise agreed in writing by Landlord) continue to guarantee the Guaranteed Obligations as contemplated hereunder if any other third party becomes "Tenant" under the Lease, as a result of a Default under the Lease by

Tenant. In any such event, Guarantor shall execute any such documentation ratifying or confirming Guarantor's obligations hereunder, including a new guaranty in the same form as this Guaranty, as Landlord may reasonably require.

4. Period of Guaranty. Subject to the following sentence, the obligations of Guarantor as to the Guaranteed Obligations shall continue in full force and effect against Guarantor in accordance with the terms hereof until the expiration of the Term (as defined in the Lease) of the Lease, whereupon this Guaranty shall terminate and Guarantor shall have no further liability hereunder for liabilities accruing after termination of the Lease, except for any costs and expenses incurred in enforcing the Lease Guaranty. This Guaranty covers any and all of the Guaranteed Obligations, whether presently outstanding, or which arise subsequent to the date hereof. This Guaranty is irrevocably binding upon and enforceable against Guarantor and the successors of Guarantor in accordance with the terms hereof, and shall inure to the benefit of the Landlord under the Lease, and its successors and assigns.

5. Primary Liability of Guarantor. This is a primary and continuing guaranty of payment of the Guaranteed Obligations, independent of Tenant's obligations under the Lease. Guarantor waives any right or claim to require Landlord (a) to proceed against any person or entity (including Tenant or its successors) to look for payment of the Guaranteed Obligations, or join any such person or entity in any suit under this Guaranty (provided, however, that Landlord agrees that Guarantor shall be an initial party-defendant in any legal proceeding asserted by Landlord against the Tenant that may result in any liability of Guarantor under this Guaranty, but Landlord may enforce the provisions of this Guaranty and assert claims against Guarantor hereunder without first pursuing any right or remedy against Tenant), (b) to proceed against or exhaust any security given to secure Tenant's obligations under the Lease, or (c) to pursue or exhaust any other remedy within the Landlord's power. Guarantor agrees not to assert any claim that Guarantor may have against Landlord by virtue of Landlord's failure to exercise any rights against Tenant. Guarantor waives any right or claim to force Landlord to proceed first against Tenant and agrees that no delay or refusal of Landlord to exercise any right or privilege Landlord has or may have against Tenant shall operate to impair the liability of Guarantor hereunder. Guarantor agrees that neither bankruptcy, insolvency, other disability, cessation of existence or dissolution of Tenant shall in any manner impair, affect, or release the liability of Guarantor hereunder, and Guarantor shall be and remain fully liable hereunder in accordance with the terms hereof. Guarantor understands and acknowledges that, by virtue of this Guaranty, Guarantor has specifically assumed any and all risks of a bankruptcy or reorganization case or proceeding with respect to Tenant or its successors. Guarantor hereby acknowledges and agrees that the Guaranteed Obligations shall not be reduced by the amount of any funds which Landlord is required to return to Tenant (or the legal estates thereof) pursuant to a bankruptcy or reorganization case or proceeding with respect to Tenant. Guarantor waives any right to participate in any security now or hereafter held by Landlord. Landlord may, without notice or demand and without affecting Guarantor's liability hereunder, from time to time, compromise, extend or otherwise modify any or all of the terms of the Lease. Guarantor further waives all defenses afforded guarantors based on suretyship or impairment of collateral under applicable law, other than payment and performance in full of the Guaranteed Obligations. Until all of Tenant's obligations to the Landlord with respect to the Guaranteed Obligations have been discharged in full, any and all rights of subrogation which Guarantor may have or be entitled to



against Tenant shall be and are hereby subordinated to the rights of the Landlord against Tenant with respect thereto.

6. Place of Performance. All payments to be made hereunder shall be payable in Orlando, Florida.

7. Applicable Law. This Guaranty shall be governed by and construed in accordance with the laws of the United States of America and the State of Florida, and is intended to be performed in accordance with and as permitted by such laws. Wherever possible each provision of this Guaranty shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Guaranty or application thereof shall be prohibited by or be invalid under such law, such provision or application (as the case may be) shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or other applications or the remaining provisions of this Guaranty.

8. No Third Party Beneficiaries. There shall be no third party beneficiaries of this Guaranty.

9. Notices. Any notices given to Guarantor or Landlord hereunder shall be given in the manner set forth in **Section 32** of the Lease, but to the respective addresses set forth beneath the parties' signatures below or at such other addresses as the parties may hereafter designate in writing from time to time.

10. Multiple Counterparts. This Guaranty may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute but one instrument.

11. Modifications. This Guaranty may not be modified except by a writing signed by the parties hereto.

**Guarantors hereby acknowledge receipt of a copy of the above-referenced lease and acknowledge that they fully understand all terms and provisions thereof, as well as this guaranty.**

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Guarantor's Signature

---

Date

---

Printed name and address