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FARMER BOYS®
FRANCHISE DEPOSIT
AGREEMENT

EXHIBIT C-1

FRANCHISE DEPOSIT AGREEMENT

THIS FRANCHISE DEPOSIT AGREEMENT ("Agreement") is entered into between Farmer Boys Food, Inc., a California corporation ("Farmer Boys", "we," or "us") [^]and [prospective franchisee's full legal name] ("you") as of the date signed by us and written opposite our signature:

A. We grant franchises for FARMER BOYS® Restaurants. You acknowledge that you received a copy of our Offering Circular, containing a copy of the Deposit Agreement as an exhibit, at least ten (10) business days before you signed this Agreement.

B. You would like to have a franchise to operate a FARMER BOYS® Restaurant ("Restaurant"). However, before you may sign a Franchise Agreement, we will require you to find a specific site for a Restaurant ("the Approved Location") that is available for lease or purchase and that is in our sole judgment satisfactory for the operation of a Restaurant. The purpose of this Agreement is to provide for your initial deposit of funds in exchange for our assistance while you are looking for a site.

NOW, THEREFORE, in reliance on and in consideration of the above facts and the terms and conditions stated below, the parties agree as follows:

1. DEPOSIT

Upon signing this Agreement, you deliver to us the sum of ten thousand dollars (\$10,000) ("Deposit") to be used in any manner in which we decide to use it. The entire Deposit will be applied toward your initial franchise fee for a FARMER BOYS® franchise unless this Agreement is terminated as described below. We will not refund the Deposit under any circumstances.

2. GRANT OF RIGHT

We grant to you, for twelve (12) months from the date of this Agreement, the nonexclusive right to seek an Approved Location that is available for lease or purchase and that in our sole judgment is satisfactory for the operation of a Restaurant. You understand that we may grant other depositors the right to seek sites while this Agreement is in effect and that Farmer Boys may also develop company locations.

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3. SITE LOCATION

You must, on your own initiative and at your own expense, find and secure the site for the Restaurant. Our prior approval of the proposed site and of the proposed lease must be obtained in writing. We may not withhold our approval unreasonably.

3.1. Proposal

To seek our approval of a site that you find, you must complete and submit our Site Evaluation Form. We will base our approval of the site on the general guidelines for suitable franchise premises that are stated in the Manual. **By approving a particular site for the premises of a Restaurant, we do not warrant that the Restaurant operating at that location will be successful.**

To seek our approval of the lease or purchase agreement for the premises of the Restaurant, you must provide a copy of the proposed lease or purchase agreement or a lease summary. The terms of the lease or purchase agreement must allow you to operate profitably under the terms of the Franchise Agreement, in our reasonable discretion. A lease must grant us an option, without cost or expense to us, to assume or authorize our assignee to assume the lease if the franchise agreement is terminated or if you should fail to cure a material default under the lease within the time allowed by the lease. Your lessor and you may meet this requirement by adding the language in the lease as listed in the Lease Provisions in the form of Attachment 1 to this Agreement. If you purchase the land or premises for the Restaurant, under the Franchise Agreement you will grant us an option to purchase the property from you or your assignee upon termination of the Franchise Agreement.

3.2. Our Obligation

We will also look for suitable sites for FARMER BOYS® Restaurants. If we find an appropriate site, we ha[^]ve the right to develop the site ourselves without offering it to you or to any other prospective franchisee. If we do[^] not wish to develop the site ourselves, we will offer the site to our depositors and will award the site to the depositor with the highest priority of those who accept the site in writing within seven (7) days after the offer is made. The order of priority is as follows: (a) any existing franchisee who has signed a Deposit Agreement; (b) the depositor with the earliest dated Deposit Agreement; (c) the depositor with the second earliest dated Deposit Agreement; and (d) so on.

As a condition of offering you a site that we ha[^]ve found, we are likely to require that you lease or sublease, at our sole option, the land on which you build your restaurant from our affiliate, Havadjia Holdings.

You may have difficulty in finding a site without our assistance. However, we cannot and do[^] not guarantee that we will find a mutually acceptable site within

your preferred geographic area. By awarding you a site, we do not warrant that the Restaurant operating at that location will be successful.

4. EXPIRATION AND EXTENSION

If this Agreement expires before you have found an Approved Location, you may submit a written request for extension of the Agreement. We will decide, in our sole discretion, whether to extend the Agreement. Important criteria in making this decision are whether you have actively sought a site and whether you have rejected one or more sites that we have offered to you.

5. TERMINATION

We may elect to terminate your rights under this Agreement for any of the following reasons:

- a. Our discovery that you have misstated or omitted any information required by the franchise application submitted to us or otherwise given to us in connection with your FARMER BOYS® franchise; or
- b. Your failure to deliver to us a signed Franchise Agreement and the remainder of the initial franchise fee within five (5) business days of receiving from Farmer Boys a signature ready copy of the agreement following either (1) your receipt of written notice from us that we have approved of the site that you proposed; or (2) your delivery of notice to us of your acceptance of a site suggested by us; or
- c. Your failure to qualify as a franchisee because of material changes in your qualifications or because you have not demonstrated your willingness to comply with the experience requirements described in section three of this Agreement..

6. DAMAGES

The parties acknowledge that the amount of actual damages that would result if we find it necessary to terminate this Agreement is uncertain and would be extremely difficult to ascertain. Consequently, if we elect to terminate this Agreement, you agree that we will be entitled to retain your deposit as compensation for our services under the Deposit Agreement.

7. ^DISPUTE RESOLUTION

7.1. Negotiation and Mediation

7.1.1.. Agreement to Use Procedure

The parties have reached this Agreement ^in good faith and in the belief that it is mutually advantageous to them. In the same spirit of cooperation, they pledge to try to resolve any dispute without litigation or arbitration. They agree that, if any dispute arises between them, before beginning any legal action to interpret or enforce this Agreement, they will first follow the procedures described in this section. Good-faith participation in these procedures to the greatest extent reasonably possible, despite lack of cooperation by one or more of the other parties, is a precondition to maintaining any legal action or arbitration to interpret or enforce this Agreement.

7.1.2.. Initiation of Procedures

The party that initiates these procedures ("Initiating Party") must give written notice to the other party, describing in general terms the nature of the dispute, specifying the Initiating Party's claim for relief, and identifying one or more people with authority to settle the dispute for him, her, or it. The party receiving the notice ("Responding Party") has ten (10) days within which to designate by written notice to the Initiating Party one or more people with authority to settle the dispute on the Responding Party's behalf. These people are called the "Authorized People."

7.1.3.. Direct Negotiations

The Authorized People may investigate the dispute as they consider appropriate, but agree to meet in person, by prearranged teleconference, or by video conference within fourteen (14) days from the date of the Initiating Party's written notice to discuss resolution of the dispute. The Authorized People may meet at any times and places and as often as they agree.

7.1.4.. Mediation

If the Dispute has not been resolved within thirty (30) days after the initial meeting, either party may begin mediation procedures. Mediation will be conducted by and under the rules of the American Arbitration Association ("AAA"). The parties will share equally the costs of mediation.

7.2. Arbitration

Any dispute arising out of or in connection with this Agreement, if not resolved by the negotiation and mediation procedures described above, must be determined in Riverside, California by the AAA. This arbitration clause will not deprive either party of any right it may otherwise have to seek provisional injunctive relief from a court of competent jurisdiction. The arbitrator must be an attorney with substantial experience in franchise law.

The parties ask that the arbitrator^ limit discovery to the greatest extent possible consistent with basic fairness^ to minimize the time and expense of arbitration. If proper notice of any hearing has been given^, the arbitrator will have full power to proceed to take evidence or to ^perform any other acts ^necessary to arbitrate the matter in the absence of any party who fails to appear^. The arbitrator will have no power to^ 1) stay the effectiveness of any pending Termination of franchise; 2) assess punitive damages against either party; or 3) make any award that ^modifies^ or suspends any lawful ^provision of this Agreement. All expenses of arbitration must be paid by the party against which the arbitrators render a decision. Judgment on any award may be entered by any court of competent jurisdiction.

8. MISCELLANEOUS PROVISIONS

8.1. Construction of Contract

Captions or paragraph headings included in this Agreement are for reference purposes only and will not in any way modify or limit the statements contained in any section or provision of this Agreement. All words in this Agreement will be considered to include any number or gender as the context or sense of this Agreement requires. If there is any conflict between this Agreement and any other document, this Agreement will control.

8.2. Governing Law

This Agreement is made in the State of California and its provisions will be governed by and interpreted under the laws of that State, with the following exceptions: (a) provisions of the Franchise Investment Law will not apply unless they would be applicable without this Agreement's designation of governing law; (b) the arbitration clause is exclusively governed by and should be construed in accordance with the Federal Arbitration Act; and (c) trademark rights will be governed by and construed in accordance with the Lanham Act.

8.3. Notice

The parties to this Agreement should direct any notices to the other party at the address below that party's name on the final page of this Agreement or at another address if advised in writing that the address has been changed. Notice may be delivered by facsimile (with simultaneous mailing of a copy by first class mail), courier, or first class mail. Notice by facsimile will be considered delivered upon transmission; by courier, upon delivery; and by first class mail, three days after posting. Notice of termination or nonrenewal must be given by a receipted form of delivery.

8.4. Amendments

This Agreement may be amended, modified, or discharged, in whole or in part, only by a document in writing signed by all of the parties to this Agreement or by their authorized agents.

8.5. Successors and Assigns

This Agreement will benefit, and be binding on, the parties to this Agreement and their heirs, successors, representatives, and transferees.

8.6. Waiver

Waiver of any default or breach of this Agreement will not be interpreted as a waiver of any subsequent breach.

8.7. Integration

This Agreement, together with any exhibits or addenda to it, is the entire agreement between the parties with respect to the subject matter addressed in it and all other agreements, understandings, conditions, warranties, and representations are superseded by this Agreement.

8.8. Severability

Each section or provision of this Agreement will be considered severable. If, for any reason, any section or provision of this Agreement is determined to be invalid or in conflict with any existing or future law or regulation, the section or provision will not impair the operation of the remaining sections or provisions of this Agreement. The latter will continue to be given full force and effect and will bind the parties to this Agreement. The invalid sections or provisions will be considered not to be a part of this Agreement.

8.9. Disclaimer of Representations

NO REPRESENTATIONS, PROMISES, GUARANTIES OR WARRANTIES OF ANY KIND ARE MADE BY FARMER BOYS TO INDUCE YOU TO SIGN THIS AGREEMENT EXCEPT THOSE SPECIFICALLY STATED IN THIS AGREEMENT. YOU ACKNOWLEDGE THAT FARMER BOYS HAS MADE NO PROMISES OR WARRANTIES TO YOU CONCERNING THE APPROPRIATENESS OF THE APPROVED LOCATION FOR A FARMER BOYS® RESTAURANT OR CONCERNING THE PROFITABILITY OR LIKELIHOOD OF SUCCESS OF THE FRANCHISED BUSINESS.

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IN WITNESS TO these facts, the parties have signed this Agreement as of the date written below.

Dated: ^ _____

FRANCHISOR
FARMER BOYS FOOD, INC.

By: _____
Demetris Havadjias, CEO

3452 University Avenue
Riverside, CA 92501

Sign here if Depositor is an individual:

DEPOSITOR

Signature: _____

Print Name: _____

Print Address: _____

Sign here if Depositor is a company:

DEPOSITOR

Print Company Name: _____

Signature: By: _____

Print Name: _____

Print Title: _____

Print Address: _____

LEASE PROVISIONS

Please give this language to your prospective lessor and ask that it be added to the terms of your lease. We normally will not approve leases that do not include substantially similar provisions:

- Lessor will simultaneously give written notice to both Farmer Boys Food, Inc. ("Farmer Boys") and Lessee of any default under the lease. If Lessee does not cure any curable default during the time allowed by the lease, Farmer Boys may have an additional 15 days within which to cure the default on its own behalf as assignee of the lease. Notice will be directed to Farmer Boys at 3452 University Avenue, Riverside, CA 92501 .
- If the lease is terminated for any reason or if the franchise agreement between Farmer Boys and Lessee is terminated for any reason, Farmer Boys may enter the leasehold premises for purposes of removing all signs and other materials bearing Farmer Boys trade name, marks or other commercial symbols.
- If the lease is terminated for any reason or if the franchise agreement between Farmer Boys and Lessee is terminated for any reason, lessor consents to assignment, without further action on its part, of this lease to Farmer Boys. Under these circumstances, Lessor will not unreasonably withhold its consent to assignment of the lease by Farmer Boys to another Farmer Boys franchisee with financial qualifications comparable to those of Lessee.
- Lessor may, upon Farmer Boys' written request, disclose to Farmer Boys all reports, information or data in Lessor's possession regarding sales made in, upon or from the leased premises.
- The leased premises may be used by Lessee only for operation of a FARMER BOYS ® Restaurant.

ATTACHMENT 1

SUBLEASE

THIS SUBLEASE ("Sublease") is dated as of _____, and is made between Havadjia Holdings, Inc., a California corporation ("Havadjia Holdings"), and ^ _____ [franchisee's legal name], ("Sublessee").

RECITALS

A. Havadjia Holdings has previously entered into a Lease dated ^ _____ [date] between Havadjia Holdings, as Lessee, and _____, as "Lessor", a copy of which is attached to this Sublease and by this reference made a part of it ("the Lease"), relating to the premises commonly known as _____ ("the Premises").

B. Farmer Boys Foods, Inc. ("Farmer Boys"), an affiliate of Havadjia Holdings, and Sublessee have entered into a Franchise Agreement dated _____ ("the Franchise Agreement") for the ownership and operation of a Restaurant at the Premises.

C. Havadjia Holdings would like to sublease the Premises to Sublessee and Sublessee would like to sublease the Premises from Havadjia Holdings.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Sublease

Havadjia Holdings now subleases the Premises to Sublessee and Sublessee now leases the Premises from Havadjia Holdings on the terms and conditions stated in this Sublease.

2. Incorporation of Lease Provisions

All of the terms, conditions, and provisions of the Lease are incorporated in this Sublease by this reference, and except to the extent contradicted or modified by this Sublease, the terms, conditions, and provisions of the Lease govern the rights and obligations of the Havadjia Holdings and Sublessee, respectively, in the same way that they govern the rights and obligations of the Lessor and Havadjia Holdings, respectively. If there is a conflict between the terms and conditions of the Lease and this Sublease, then as between Havadjia Holdings and Sublessee this Sublease will prevail and control. In spite of the foregoing, the following provisions of the Lease will not be applicable to Sublessee: Lease Paragraph Nos. ^ _____.

ATTACHMENT 2-A

3. Term

3.1. Initial Term

The term of this Sublease will begin at: (a) the date when the term of the Lease begins, (b) the date when this Sublease is signed by the last of the signing parties, or (c) when Lessor consents to this Sublease, whichever is later. The term of this Sublease will end at same time that the term of the Lease ends, unless terminated sooner or extended in accordance with the provisions of this Sublease.

3.2. Renewal or Extension

If the Lease has provisions enabling Havadjia Holdings to renew or extend the Lease, then Sublessee has the same rights to renew or extend this Sublease, up to a maximum potential Sublease term of forty (40) years, including options. After a maximum of forty (40) years, this Sublease will end, even if the term of the Lease does not then end. As between Havadjia Holdings and Sublessee, any deadline for notice of exercise of any option rights in the Lease will be advanced ninety (90) days in the Sublease. Havadjia Holdings may renew or extend the Lease even if Sublessee does not extend the term of this Sublease.

4. Possession

Possession of the Premises will be delivered to Sublessee at the beginning of the term of this Sublease, as determined under Section 3.1 of this Sublease.

5. Rent

5.1. Base Rent

Sublessee will not pay the minimum, base, or fixed rent due from Havadjia Holdings to the Lessor under the Lease. Sublessee will, however, pay Havadjia Holdings, in equal monthly installments, the annual minimum rent ("Base Rent") stated in Schedule A to this Sublease.

5.2. Percentage Rent

In addition to Base Rent, Sublessee must pay Sublessor Percentage Rent, calculated as follows:

- (a) Two hundred thousand dollars (\$200,000)
- (b) PLUS Annual gross sales (amount received by Sublessee and its related parties for all goods sold and services rendered from the premises during the year)
- (c) MINUS Sales tax and returns
- (d) TIMES Four Percent (4%)

- (e) MINUS Base Rent
 - (f) EQUALS Percentage Rent
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If components (a) through (d) of the above calculation do not exceed the Base Rent, no Percentage Rent is payable.

Percentage Rent is due, for each calendar year of the term of this Sublease, on the tenth (10th) day of the following January. A final Percentage Rent payment is due on the tenth (10th) day of the month following expiration or termination of the sublease. For purposes of determining percentage rent, Sublessee agrees to keep adequate books that show all sales and charges by Sublessee and any other people conducting any business upon or from the Premises. Sublessee must submit to Sublessor, for each calendar year of the term of this Sublease, on the tenth (10th) day of the following January, a written statement signed by Sublessee and certified by it to be true and correct, showing in reasonably accurate detail the amount of Gross Sales during the preceding year. The statements must be in any form and style and contain any details that Sublessor reasonably requires. If the first or last year of the term of this Sublease is not a full calendar year, the percentage rent, the Base Rent, and the two hundred thousand dollars (\$200,000.00) will be prorated.

5.3. Other Lease Charges

Sublessee will also pay Havadjia Holdings all other monetary amounts of any kind or nature whatsoever that Havadjia Holdings is required to pay Lessor under the provisions of the Lease.

5.4. When to Pay

The Base Rent required by this Sublease and except for property taxes, any other charges described above will be paid by Sublessee to Havadjia Holdings ten (10) days before the date that they are due under the Lease. Even if the Lease permits Havadjia Holdings to pay property taxes to the landlord in a lump sum annually, Havadjia Holdings has the right to require Sublessee to pay one twelfth (1/12) of the annual property tax bill each month with the Base Rent and other charges.

5.5. Where to Pay

The Base Rent and other charges described above must be paid by Sublessee to Havadjia Holdings, without deduction, setoff, notice, or demand, at the address below the Havadjia Holdings' signature on the final page of this Sublease, or at any other place Havadjia Holdings designates by written notice to Sublessee.

5.6. Havadjia Holdings' Obligation to Pay Lessor

Immediately upon receipt from Sublessee of the Base Rent and other charges described above, or when funds are available at Havadjia Holdings's bank if payment is by other than cash, cashier's check, or bank wire, Havadjia Holdings will pay Lessor the corresponding sums due Lessor under the provisions of the Lease. Havadjia Holdings will be under no obligation to Sublessee to pay Lessor at any time that Sublessee is in default of its obligations to Havadjia Holdings under this Sublease. If any check given by Sublessee to Havadjia Holdings is dishonored by Sublessee's bank, then at any time afterward Havadjia Holdings may require that all future payments be made by cashier's check or bank wire at Sublessee's expense.

5.7. Late Charges and Interest

All payments which Sublessee is required to make to Havadjia Holdings under this Sublease will bear interest from and after their respective due dates until paid in full at a rate equal to eighteen percent (18%) per year, calculated and payable weekly, or the highest amount permitted by applicable law, whichever is less. Sublessee acknowledges that this provision is not Havadjia Holdings' agreement to accept late payments or a commitment by Havadjia Holdings to extend credit to or otherwise finance Sublessee's operation of the Restaurant. Sublessee acknowledges that his or her failure to pay all amounts when due will constitute a breach of this Sublease and, if not cured within any applicable cure period, grounds for its termination. Further, acceptance of any interest payment will not be construed as a waiver by Havadjia Holdings of its right in respect of the default giving rise to the payment and will not diminish Havadjia Holdings' right to terminate this Sublease on the basis of the default.

5.8. Partial Months

If the term of this Sublease begins or ends on a day other than the first or last day of a month, the Base Rent and other charges for the partial month or months will be prorated accordingly.

6. Security Deposit

Sublessee must deposit with Havadjia Holdings on signing of this Sublease a security deposit in the sum of \$ [^] _____, as security for the performance by Sublessee of its obligations under this Sublease. If Sublessee is not in default at the expiration or earlier termination of this Sublease, the security deposit will be returned to Sublessee. Havadjia Holdings' obligations with respect to the security deposit are those of a debtor and not a trustee. Havadjia Holdings may commingle the security deposit with its general and/or other funds, and it will have no obligation to pay Sublessee interest upon the security deposit.

7. Use of Premises

During the term of this Sublease, the Premises must be used exclusively for the purpose of operating a franchised Restaurant in accordance with the Franchise Agreement, the Lease, this Sublease, and all applicable laws, regulations and ordinances, and for no other purpose without the express written consent of Havadjia Holdings.

8. Performance of Lease Obligations

8.1. Nonmonetary Obligations

If any of the terms or conditions of the Lease require Havadjia Holdings to perform any act, other than the payment of money directly to the Lessor, all of these terms and conditions are incorporated into and made a part of this Sublease. Sublessee will perform all these obligations on Havadjia Holdings' behalf.

8.2. Lease Restrictions

If any of the terms or conditions of the Lease restrict the rights of Havadjia Holdings, all of those terms and conditions are incorporated into and made a part of this Sublease and Sublessee will abide by them.

8.3. Lessor's Breach

Havadjia Holdings will have no liability to Sublessee because of Lessor's breach of the Lease. As long as it can do so without incurring expense, Havadjia Holdings will cooperate with Sublessee and exercise due diligence in all reasonable respects to enforce the terms of the Lease against Lessor.

8.4. Liability for Lease Termination

If the Lease terminates as a result of a default or breach of some obligation contained in the Lease, then, as between Havadjia Holdings and Sublessee, the party that caused the default will be liable to the nondefaulting party for the damage suffered as a result of the Lease termination.

8.5. Enforcement of Lease

Nothing contained in this Sublease is intended to abridge or restrict Havadjia Holdings, as lessee under the Lease, from enforcing the Lease as between Havadjia Holdings and the Sublessee.

9. Insurance and Condemnation

9.1. Procurement and Maintenance

Sublessee agrees to procure and maintain, at its sole cost and expense, all of the insurance required of Havadjia Holdings by the Lease and to otherwise comply with all of the insurance obligations stated in the Lease. In addition, Sublessee will cause Havadjia

Holdings and any other person designated by Havadjia Holdings to be named as additional insureds on the insurance policy or policies and to give Havadjia Holdings copies of these policy or policies.

9.2. Use of Proceeds

If a casualty occurs that is covered by insurance, the Premises must be rebuilt with the proceeds of the insurance unless the Lease mandates another result. Sublessee will pay any deductibles and will fund any shortfall if the proceeds of the insurance are inadequate. If a casualty occurs that is not covered by insurance, then Sublessee will rebuild the Premises, at its sole cost and expense, unless the Lease mandates another result.

9.3. Condemnation

If all or any portion of the Premises are taken by condemnation, if the Premises can be rebuilt then they must be rebuilt to the extent possible unless the Lease mandates another result. The award of the condemning authority will be used for this purpose and Sublessee will fund any shortfall if the award is inadequate.

9.4. Right to Terminate

If the Lease gives the Lessor any right to terminate the Lease upon the partial or total damage, destruction, or condemnation of the Premises, this termination right will also apply to this Sublease.

10. Consent

Whenever the Lease provides that the Lessor's consent is required for an act or omission, then the consent of both the Lessor and Havadjia Holdings to the act or omission will be required. Whenever the Lease provides that Havadjia Holdings's consent is required for an act or omission, then the consent of both Havadjia Holdings and Sublessee to the act or omission will be required. In all cases where the consent of Havadjia Holdings or Sublessee is required, the same will not be unreasonably withheld, delayed, or conditioned by Havadjia Holdings or Sublessee.

11. Assignment and Subletting

11.1. Transfer

Sublessee may not assign or in any manner transfer this Sublease or any interest in this Sublease or further sublet the Premises or any part or parts of them, nor permit occupancy by anyone with, through or under the Sublease, except in connection with a transfer of the Franchise Agreement and upon the terms and conditions contained in the Franchise Agreement and the Lease. This Sublease and the Sublessee's interest in it will not be assignable by operation of law.

11.2. Failure to Obtain Approval

Any attempted or actual transfer of this Sublease (whether by way of an assignment, sublease or otherwise) by Sublessee without Havadjia Holdings' prior written consent will be null, void and of no force or effect, will convey no right or interest to the purported transferee, and will constitute a material breach of this Sublease.

11.3. Assignment by Havadjia Holdings

Havadjia Holdings may at any time assign this Sublease and the rights, privileges, duties and obligations under it, subject only to the requirements of the Lease.

11.4. Indemnity

Sublessee indemnifies and holds Havadjia Holdings and its affiliates harmless from and against all claims and demands of any type, kind, or nature made by any third party which arise out of or are in any manner connected with Sublessee's use and occupancy of the premises or this Sublease other than claims or demands arising out of or in connection with the grossly negligent act or omission or wilful misconduct of Havadjia Holdings, Farmer Boys, or their employees, agents or contractors.

12. Havadjia Holdings' Right to Cure Defaults

At any time during the term of this Sublease and without notice to Sublessee, Havadjia Holdings may, but will not be obligated to, cure or otherwise discharge any default by Sublessee under this Sublease. Any and all costs or expenses which Havadjia Holdings may incur for this purpose will be immediately due and payable in full without further notice or communication to Sublessee of any type, kind or nature. Havadjia Holdings will have the same remedies for the recovery of these costs and expenses as for the recovery of rent under this Sublease and at law.

13. Default and Termination

In spite of anything to the contrary in this Sublease, Havadjia Holdings will have the right to terminate this Sublease, enabling Havadjia Holdings to exercise all of the remedies of a landlord and to file an action for unlawful detainer, upon the happening of any of the following events:

- (a) Any failure by Sublessee to pay the Base Rent within five (5) days of the due date for the Base Rent, and any other failure of Sublessee to pay any other amount due under the Sublease within five (5) days of written demand.
- (b) If the Franchise Agreement dated ^ _____ between Farmer Boys and Sublessee expires and is not renewed or is terminated for any reason;
- (c) If the Lease should be canceled or terminated by reason of any act or omission of Sublessee prior to its expiration date; or

- (d) If Sublessee should suffer or permit the occurrence of any act or thing which would constitute an event of default by Havadjia Holdings under the terms of the Lease and fail to cure the default within any applicable cure period.

14. Legal Proceedings

If Havadjia Holdings begins any summary proceeding to enforce this Sublease against Sublessee or to remove Sublessee and Sublessee's property from the Premises, Sublessee may not assert any counterclaims or assert as a defense to any such proceeding that Farmer Boys had no right to terminate the Franchise Agreement or that Farmer Boys had violated the franchise laws, it being the intention of the parties that these counterclaims must be brought against Farmer Boys, if at all, in a separate proceeding.

15. Notice

If the Lease requires that notice be given to the Lessor, then whenever Havadjia Holdings gives notice to Lessor it will also notify Sublessee in the same manner and whenever Sublessee gives notice to Lessor it will also notify Havadjia Holdings in the same manner. The initial addresses for notice to Havadjia Holdings and Sublessee are written below their names on the final page of this Sublease. Notice may be delivered by facsimile (with simultaneous mailing of a copy by first class mail), courier, or first class mail. Notice by facsimile will be considered delivered upon transmission; by courier, upon delivery; and by first class mail, three days after posting.

16. Entire Agreement

This Sublease, including all of the provisions of the Lease incorporated in this Sublease by reference, describes all the agreements between Havadjia Holdings and Sublessee concerning the Premises. All other agreements, understandings, conditions, warranties, and representations are superseded by this Sublease.

17. Joint and Several Liability

If Sublessee is or becomes a partnership, corporation, or limited liability company, or if this Sublease is assigned to a partnership, corporation, or limited liability company, all general partners, shareholders, or members must guaranty this Sublease and be bound jointly and severally by all its provisions. The guarantors to this Sublease represent and warrant that they are the sole owners of Sublessee.

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IN WITNESS TO THE FOREGOING, the parties to this Sublease have signed this Sublease as of the date stated above.

SUBLESSEE

[franchisee's legal name]
By: _____
Print Name: _____
Title, if any: _____
Address: _____

HAVADJIA HOLDINGS, INC.

By: _____
Print Name: _____
Print Title: _____
3425 University Avenue
Riverside CA 92501
909/275-9900
909/275-9930 fax

COVENANTS OF SHAREHOLDERS, PARTNERS, OR MEMBERS

The undersigned individuals represent and warrant that they are all of the shareholders, partners, or members of Sublessee. Accordingly, to induce Havadjia Holdings to enter into this Sublease, each of the undersigned individuals jointly and severally guarantees the performance by Sublessee of its obligations under this Sublease and each of the undersigned individuals jointly and severally agrees to be bound by all of the provisions of this Sublease.

Dated: ^ _____

-X-

RENT

SCHEDULE A

@PFDesktop\::ODMA\WORLD\W:\WDOX\CLIENTS\FBF\012\00013469.WPD
Sublease Agreement
April 24, 2006

FARMER BOYS® RESTAURANT LEASE

1. Basic Provisions.

This paragraph 1 contains the Basic Provisions of this Lease. The Basic Provisions are further defined and explained in other paragraphs of this Lease and are to be read in conjunction with them.

1.1 **Parties; Date:** This Lease ("Lease"), dated for reference purposes only as of _____ [date], is made by **Havadjia Holdings, Inc.**, whose address for notice and the payment of rent is 3452 University Avenue, Riverside CA 92501 ("Landlord"), and ^ _____, whose address for notice is the Premises ("Tenant").

1.2 **Premises:** The real property, including all improvements now or in the future erected on it, commonly known as ^ _____ and legally described ^as _____, and generally described as land and a commercial or industrial building now existing or to be built, including all parking areas, landscape areas, walks, drives, trash enclosures, and other appurtenances ("Premises").

1.3 **Term; Options:** This Lease will be for an initial term of approximately Twenty (20) years ("Original Term") beginning on the earlier of _____ [date] or the date that Tenant opens the business to be conducted at the Premises ("Commencement Date"), and ending on _____, 2022 ("Expiration Date"). In addition, Tenant will have two (2) options ("Option(s)") to extend the term of this Lease for **ten (10) years per Option** ("Option Period"). If no Option Periods are specified in this paragraph of this Lease, then references to an Option or Option Periods in this Lease will be considered surplusage and may be ignored. In spite of the above definition of the Commencement Date, all of the Tenant's indemnity obligations under this Lease, as well as the Tenant's obligations to carry insurance, will be effective at any time that the Tenant or any of the Tenant's agents, employees, contractors, subcontractors or any person acting at the request of the Tenant, is on or in possession of the Premises.

1.4 **Rent:**

(a) The rent per month for the Premises for the Original Term and any Option Periods will be as follows:

MONTHLY RENT	
From the Commencement Date until _____, 2007	\$
The next five (5) years	\$
The next five (5) years	\$
The next five (5) years	\$

The rent for the first five (5) years of each Option Period will be the greater of the rent for the five (5) year period immediately preceding each applicable Option Period, or the fair market rental value of the Premises as determined in accordance with the provisions of paragraph 3.4, below. The rent for the second five (5) years of each Option Period will be increased by an amount equal to _____ percent of the rent for the first five (5) years of the applicable Option Period.

1.5 **Security:** On the signing of this Lease, the Tenant will pay Landlord an amount equal to the monthly rent as of the Commencement Date of this Lease as a security deposit. At the beginning of each five years thereafter, Tenant must pay Landlord an amount sufficient to increase the security deposit to the rent during the applicable period.

ATTACHMENT 2-B

1.6 **Permitted Use:** FARMER BOYS® restaurant

1.7 **Guarantor:** The obligations of the Tenant under this Lease are to be guaranteed by _____ ("Guarantor").

^
If no Guarantor is identified in this paragraph of this Lease, then references to a Guarantor in this Lease will be considered surplusage and may be ignored.

1.8 **Contingencies.** Tenant acknowledges that as of the date of the signing of this Lease Landlord does not own fee title to the Premises, and the parties do not have the requisite permits or licences to construct the Premises or operate Tenant's business at the Premises. Therefore, this Lease will be contingent upon Landlord's either purchasing the Premises or acquiring a ground lease for the Premises, on terms that are acceptable to Landlord, in its sole and absolute discretion. The obligations under this Lease are also contingent upon the parties obtaining any permits and/or licenses (including but not limited to conditional use permits, building permits, and variances) that are required by applicable laws to enable Tenant legally to (a) construct Tenant's improvements to the Premises; (b) to install Tenant's signs on the Premises; and (c) to conduct its business from the Premises. Landlord and Tenant will, at Tenant's expense, initiate and diligently pursue each permit and/or license. Landlord will sign any applications and will provide Tenant with any further assistance and cooperation that Tenant may require in applications for these permits and licenses.

2. **Premises.**

2.1 **Lease of Premises.** Landlord leases to Tenant, and Tenant hires from Landlord, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions stated in this Lease. Unless otherwise provided in this Lease, any statement of square footage in this Lease, or any statement of square footage that may have been used in calculating rental, is an approximation which Landlord and Tenant agree is reasonable and the rental based on it is not subject to revision whether or not the actual square footage is more or less.

2.2 **Acceptance of Premises.** Tenant acknowledges: (a) that prior to the Commencement Date of this Lease it has satisfied itself with respect to the condition of the Premises and the present and future suitability of the Premises for Tenant's intended use, (b) that neither Landlord, nor any of Landlord's agents, has made any oral or written representations or warranties with respect to these matters other than as describe in this Lease, (c) that the Premises are subject to all applicable zoning ordinances, building codes and to all easements, covenants, conditions, restrictions and other matters of record on the Commencement Date, and (d) that Tenant accepts the Premises in an "as-is" condition, with all faults.

3. **Term.**

3.1 **Term.** The Commencement Date, Expiration Date and Original Term of this Lease are as specified in paragraph 1.3.

3.2 **Holding Over; Surrender.** Tenant must vacate the Premises upon the expiration or earlier termination of this Lease and Tenant. Tenant must indemnify Landlord against any and all damages incurred by Landlord resulting from any delay by Tenant in vacating the Premises when required. In spite of the foregoing, if Tenant fails to vacate the Premises upon the expiration or earlier termination of this Lease and Landlord accepts rent from Tenant, Tenant's occupancy of the Premises will be considered a "month-to-month" tenancy, subject to all of the other terms of this Lease, except that the rent will be increased by fifty percent (50%) over the rent in effect on the date of termination of this Lease. Tenant must surrender the Premises by the end of the last day of the Lease term or any earlier termination date, with all improvements, parts and surfaces clean and free of debris and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" will not include any damage or deterioration that would have been prevented by good maintenance practice or by Tenant performing all of its obligations under this Lease. Tenant must repair of any damage occasioned by the installation, maintenance or removal of Tenant's Trade Fixtures.

3.3 **Option to Extend.** Landlord hereby grants Tenant the Options, if any, specified in paragraph 1.3, to extend the term of this Lease, each option being expressly conditioned upon compliance with the following terms and conditions:

(a) No less than six (6) months and no more than nine (9) months before the expiration of the then current term of this Lease, Tenant must give Landlord a written notice of the exercise of its Option to extend the term of this Lease for the next applicable Option term, time being of the essence. If said notice is not so given, the Option will automatically expire;

(b) The provisions of paragraph 37 of this Lease are conditions to the Tenant's right to exercise any Option; and

(c) All of the terms and conditions of this Lease will apply during any Option Period.

3.4 **Option Rent.** The rent during each Option Period will be determined as follows:

(a) Within fifteen (15) days of receipt by Landlord of Tenant's written notice of the exercise of any Option, Landlord must send written notice (the "Landlord's Notice") to Tenant advising Tenant of Landlord's opinion of the fair market rental value of the Premises for the Option Period (the "Landlord's Opinion of Value").

(b) If Landlord's Opinion of Value is acceptable to Tenant, then Tenant will so notify Landlord in writing within fifteen (15) days of receipt by Tenant of Landlord's Notice, and this Lease will be extended for the period for which the Option was exercised at the rental rate described in Landlord's Notice.

(c) If Tenant disagrees with Landlord's Opinion of Value, Tenant will deliver written notice of disagreement (the "Tenant's Notice") to Landlord within fifteen (15) days of receipt by Tenant of Landlord's Notice. In the Tenant's Notice, Tenant will advise Landlord of Tenant's opinion of the fair market rental value of the Premises for the Option Period ("Tenant's Opinion of Value"). If Landlord and Tenant cannot agree in writing upon the Value of the Premises within ten (10) days after Landlord's receipt of Tenant's Notice, then the rent for the Premises for the applicable Option Period will be either (i) Landlord's Opinion of Value or (ii) Tenant's Opinion of Value, and no other number, as determined by the following appraisal procedures. Landlord and Tenant must pay for the costs of their respective appraisers, and the parties must share the cost of the third appraiser on a 50/50 basis.

(d) In the parties cannot agree upon the rent within the time frame allowed by subparagraph (c) above, then, within thirty (30) days thereafter, both Landlord and Tenant will appoint an appraiser licensed by the State of California and will give written notice of the name and address of this appraiser to the other party. The failure by either party to timely appoint an appraiser and so notify the other party in writing will be considered a waiver by the failing party of the right to have the rent determined by more than one appraiser. Within ten (10) days after both appraisers are appointed, the appraisers will themselves appoint a third appraiser and serve written notice of the appraiser so appointed upon each of the parties. The third appraiser must have at least five (5) years experience in appraising commercial real estate in the general area of the Premises. The three appraisers so appointed will meet at the earliest time practicable, but in no event more than thirty (30) days after the appointment of the third appraiser, for the purpose of determining whether Landlord's Opinion of Value or Tenant's Opinion of Value is the more accurate rent for the Premises. The decision of the majority of said appraisers will be binding on both of the parties to this agreement. In spite of the generality of the foregoing, in no event will the rent be less than rent for the year preceding the Option Period for which the Option was exercised. The rent for the Premises will be determined based upon rentals then being charged for other space similarly situated taking into account the size, location, floor level, length of the term of the Option Period, and any other relevant terms and conditions, but, in each instance, disregarding "tenant concessions", if any, then being offered to prospective new tenants. The term "tenant concessions" will include, without limitation, so-called free rent, reduced rent, tenant improvement allowances,

moving allowances, lease takeover costs, the method of calculating rentable square footage, Landlord construction costs, etc.

4. **Rent.**

4.1. General. Tenant must cause payment of rent and other charges, as adjusted from time to time, to be received by Landlord in lawful money of the United States, without offset or deduction and without demand, on or before the first day of each month during each month of the term of this Lease. Rent and other charges for any period during the term of this Lease which is for less than one (1) full calendar month will be prorated based upon the actual number of days of the calendar month involved. Payment of rent and other charges will be made to Landlord at its address stated in this Lease or to any other people or at any other addresses that Landlord may from time to time designate in writing to Tenant.

4.2. Percentage Rent. In addition to Base Rent, Tenant must pay Landlord Percentage Rent, calculated as follows:

- (a) Two Hundred Thousand Dollars (\$200,000)
- (b) PLUS Annual gross sales (amount received by Tenant and its related parties for all goods sold and services rendered from the premises during the year)
- (c) MINUS Sales tax and returns
- (d) TIMES Four Percent (4%)
- (e) MINUS Base Rent
- (f) EQUALS Percentage Rent

If components (a) through (d) of the above calculation do not exceed the Base Rent, no Percentage Rent is Payable.

Percentage Rent is due, for each calendar year of the term of this Sublease, on the tenth (10th) day of the following January. A final Percentage Rent payment is due on the tenth (10th) day of the month following expiration or termination of the Lease. For purposes of determining percentage rent, Tenant agrees to keep adequate books that show all sales and charges by Tenant and any other people conducting any business upon or from the Premises. Tenant must submit to Landlord, for each calendar year of the term of this Lease, on the tenth (10th) day of the following January, a written statement signed by Tenant and certified by it to be true and correct, showing in reasonably accurate detail the amount of Gross Sales during the preceding year. The statements must be in any form and style and contain any details that Landlord reasonably requires. If the first or last year of the term of this Lease is not a full calendar year, the percentage rent, the Base Rent, and the Two Hundred Thousand Dollars (\$200,000.00) will be prorated.

5. **Security Deposit.** Tenant must deposit with Landlord upon signing of this Lease the security deposit stated in paragraph 1.5 as security for Tenant's faithful performance of Tenant's obligations under this Lease. If Tenant fails to pay rent or other charges due under this agreement, or otherwise defaults under this Lease, Landlord may use, apply or retain all or any portion of the security deposit for the payment of any amount due Landlord or to reimburse or compensate Landlord for any liability, cost, expense, loss or damage (including attorney fees) which Landlord may suffer or incur by reason of the default. If Landlord uses or applies all or any portion of security deposit, Tenant shall within ten (10) days after written request therefor deposit moneys with Landlord sufficient to restore said security deposit to the full amount required by this Lease. Landlord shall not be required to keep all or any part of the security deposit separate from its general accounts. Landlord must, at the expiration or earlier termination of the term of this Lease and after Tenant has vacated the Premises, return to Tenant (or, at Landlord's option, to the last assignee, if any, of Tenant's interest in this Lease), that portion of the security deposit not used or applied by Landlord. No part of the

security deposit will be considered to be held in trust, to bear interest, or to be prepayment for any moneys to be paid by Tenant under this Lease.

6. **Use.**

6.1 **Use.** Tenant may use and occupy the Premises only for the purposes described in paragraph 1.6 and for no other purpose whatsoever. Tenant may not use or permit the use of the Premises in a manner that creates waste or a nuisance, or that disturbs owners and/or occupants of, or causes damage to, neighboring premises or properties. Tenant covenants and agrees that it will continuously and uninterruptedly throughout the term of this Lease (i) operate and conduct a lawful business at the Premises during the usual business hours of each and every business day that is customary for businesses of like character in the city in which the Premises are located, and (ii) staff the Premises with sufficient sales personnel, stock the Premises with adequate merchandise, and exercise sound business practices, due diligence and efficiency so as to maximize gross sales from the Premises.

6.2 **Hazardous Substances.**

(a) **Reportable Uses Require Consent.** The term "Hazardous Substance" as used in this Lease will mean any product, substance, chemical, material or waste whose presence, nature, quantity and/or intensity of existence, use, manufacture, disposal, transportation, spill, release or effect, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for liability of Landlord to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substance will include, but not be limited to, hydrocarbons, petroleum, gasoline, crude oil or any products, by-products or fractions of them. Tenant may not engage in any activity in, on or about the Premises which constitutes a Reportable Use (as defined below) of Hazardous Substances without the express prior written consent of Landlord and compliance in a timely manner (at Tenant's sole cost and expense) with all Applicable Law. "Reportable Use" will mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority. Reportable Use will also include Tenant's being responsible for the presence in, on or about the Premises of a Hazardous Substance with respect to which any Applicable Law requires that a notice be given to people entering or occupying the Premises or neighboring properties. In spite of the foregoing, Tenant may, without Landlord's prior consent, but in compliance with all Applicable Law, use any ordinary and customary materials reasonably required to be used by Tenant in the normal course of Tenant's business permitted on the Premises, so long as the use is not a Reportable Use and does not expose the Premises or neighboring properties to any meaningful risk of contamination or damage or expose Landlord to any liability. In addition, Landlord may (but without any obligation to do so) condition its consent to the use or presence of any Hazardous Substance, activity or storage tank by Tenant upon Tenants giving Landlord any additional assurances that Landlord, in its reasonable discretion, considers necessary to protect itself, the public, the Premises and the environment against damage, contamination or injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or earlier termination) of reasonably necessary protective modifications to the Premises (such as concrete encasements) and/or the deposit of an additional security deposit.

(b) **Duty to Inform Landlord.** If Tenant knows, or has reasonable cause to believe, that a Hazardous Substance, or a condition involving or resulting from same, has come to be located in, on, under or about the Premises, other than as previously consented to by Landlord, Tenant must immediately give written notice of this fact to Landlord. Tenant must also immediately give Landlord a copy of any statement, report, notice, registration, application, permit, business plan, license, claim, action or proceeding given to, or received from, any governmental authority or private party, or people entering or occupying the Premises, concerning the presence, spill, release, discharge of, or exposure to, any Hazardous

Substance or contamination in, on, or about the Premises, including but not limited to all documents that may be involved in any Reportable Uses involving the Premises.

(c) **Indemnification.** Tenant will indemnify, protect, defend and hold Landlord, its constituent partners, shareholders, officers, directors, employees, agents, and the Premises, harmless from and against any and all damages, liabilities, judgments, costs, claims, liens, expenses, penalties, permits and attorneys and consultants fees arising out of or involving any Hazardous Substance or storage tank brought onto the Premises by or for Tenant or under Tenant's control. Tenant's obligations under this paragraph will include, but not be limited to, the effects of any contamination or injury to person, property or the environment, and the cost of investigation (including consultant's and attorney fees and testing), removal, remediation, restoration and/or abatement of them, or of any contamination in them, and will survive the expiration or earlier termination of this Lease. No termination, cancellation or release agreement entered into by Landlord and Tenant will release Tenant from its obligations under this Lease with respect to Hazardous Substances or storage tanks, unless specifically so agreed by Landlord in writing at the time of the agreement.

6.3 **Tenant's Compliance with Law.** Tenant, must, at Tenant's sole cost and expense, fully, diligently and in a timely manner, comply with all "Applicable Law," which term is used in this Lease to include all federal, state and local statutes, laws, rules, regulations, ordinances, directives, covenants, easements and restrictions of record, permits, the requirements of any applicable fire insurance underwriter or rating bureau relating in any manner to the Premises (including but not limited to matters pertaining to (i) industrial hygiene, (ii) environmental conditions on, in, under or about the Premises, including soil and groundwater conditions, and (iii) the use, generation, manufacture, production, installation, maintenance, removal, transportation, storage, spill or release of any Hazardous Substance or storage tank), now in effect or which may in the future come into effect.

6.4 **Inspection; Compliance.** Landlord and Landlord's lenders will have the right to enter the Premises at any time in the case of an emergency, and otherwise at reasonable times, for the purpose of inspecting the condition of the Premises and for verifying compliance by Tenant with this Lease and all Applicable Laws, and to employ experts and/or consultants in connection with these purposes and/or to advise Landlord with respect to Tenant's activities, including but not limited to the installation, operation, use monitoring, maintenance, or removal of any Hazardous Substance or storage tank on or from the Premises. The costs and expenses of any such inspection will be paid by the party requesting same, unless a default or breach of this Lease, violation of Applicable Law, or a contamination, caused or materially contributed to by Tenant is found to exist or be imminent, or unless the inspection is requested or ordered by a governmental authority as the result of any existing or imminent violation or contamination. In any case, Tenant will upon request reimburse Landlord or Landlord's lender, as the case may be, for the costs and expenses of these inspections.

7. **Maintenance; Repairs; Utilities and Alterations.**

7.1 **Tenant's Obligations.** Subject to the provisions of this lease dealing with damage, destruction, and condemnation, Tenant must, at Tenant's sole cost and expense and at all times, keep the Premises and every part of them in good order, condition and repair, structural and non-structural (whether or not the portion of the Premises requiring repairs, or the means of repairing the same, are reasonably or readily accessible to Tenant, and whether or not the need for the repairs occurs as a result of Tenant's use, any prior use, the elements or the age of the portion of the Premises), including, without limiting the generality of the foregoing, all equipment or facilities serving the Premises, such as plumbing, heating, air conditioning, ventilating, electrical, lighting facilities, boilers, fired or unfired pressure vessels, fire sprinkler and/or standpipe and hose or other automatic fire extinguishing system, including fire alarm and/or smoke detection systems and equipment, fire hydrants, fixtures, walls (interior and exterior), foundations, ceilings, roofs, floors, windows, doors, plate glass, skylights landscaping, driveways, parking lots, fences, retaining walls, signs, sidewalks and parkways located in, on, about, or adjacent to the Premises. Tenant's obligations will include restorations, replacements or renewals when necessary to keep the Premises and all improvements on them in good order,

condition and state of repair. Landlord may require Tenant to repaint the exterior of the buildings on the Premises as reasonably required.

7.2 **Landlord's Obligations.** Subject to the provisions of this lease dealing with damage, destruction, and condemnation, it is intended by the parties to this agreement that Landlord have no obligation, in any manner whatsoever, to repair or maintain the Premises, the improvements located on them, or the equipment in them, whether structural or non-structural, all of which obligations are intended to be that of the Tenant under paragraph 7.1. Tenant expressly waives the benefit of any statute now or in the future in effect to the extent it is inconsistent with the terms of this Lease with respect to, or which affords Tenant the right to make repairs at the expense of Landlord or to terminate this Lease by reason of any needed repairs.

7.3 **Alterations.**

(a) **Definitions; Consent Required.** The term "Trade Fixtures" will mean Tenant's machinery and equipment that can be removed without doing material damage to the Premises. The term "Alterations" will mean any modification of the improvements on the Premises from that which exist on the Commencement Date, other than Trade Fixtures. Tenant may not make any Alterations in, on, under or about the Premises without Landlord's prior written consent. Tenant may, however, make non-structural Alterations to the interior of the Premises (excluding the roof), as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing walls, and the cumulative cost of them during the term of this Lease as extended does not exceed \$25,000.

(b) **Consent.** Any Alterations that Tenant may desire to make and which require the consent of the Landlord must be presented to Landlord in written form with proposed detailed plans. All consents given by Landlord will be considered conditioned upon: (i) Tenant's acquiring all applicable permits required by governmental authorities, (ii) the furnishing of copies of these permits together with a copy of the plans and specifications for the Alterations to Landlord prior to commencement of the work on them, and (iii) the compliance by Tenant with all conditions of the permits in a prompt and expeditious manner. Any Alterations by Tenant during the term of this Lease must be done in a good and workmanlike manner, with good and sufficient materials, and in compliance with all Applicable Law. Landlord may condition its consent to any requested Alterations upon Tenant's providing Landlord with a lien and completion bond in an amount equal to one and one-half times the estimated cost of the Alterations.

(c) **Indemnification.** Tenant must pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Tenant at or for use on the Premises, which claims are or may be secured by any mechanics, or materialmen's lien against the Premises or any interest in them. Tenant must give Landlord not less than ten (10) days' notice prior to the beginning of any work in, on or about the Premises, and Landlord will have the right to post notices of non-responsibility in or on the Premises as provided by law. If Tenant, in good faith, contests the validity of any lien, claim or demand, then Tenant may, at its sole expense defend and protect itself, Landlord and the Premises against the same and must pay and satisfy any the adverse judgment that may be rendered on it before the enforcement of it against the Landlord or the Premises. If Landlord requires, Tenant must furnish to Landlord a surety bond satisfactory to Landlord in an amount equal to one and one-half times the amount of the contested lien claim or demand, indemnifying Landlord against liability for the same, as required by law for the holding of the Premises free from the effect of the lien or claim. In addition, Landlord may require Tenant to pay Landlord's attorney fees and costs in participating in the action if Landlord decides it is in its best interest to do so.

(d) **Ownership.** All Alterations will, at the expiration or earlier termination of this Lease, become the property of Landlord and will remain upon and be surrendered by Tenant with the Premises.

^ 7.4 **Initial Construction.**

Landlord and Tenant acknowledge that as of the signing of this Lease, the Premises consist of vacant land, and a building must be constructed to accommodate Tenant's intended use.

Tenant will comply with the provisions of section 7.3 of this Lease with reference to the construction. Tenant will begin construction of the Restaurant as soon as permits for the same are available, and diligently prosecute the construction/remodeling to completion and the initial opening of the Restaurant, all at Tenants sole cost and expense. Prior to the beginning of construction, Tenant must provide Landlord with reasonable verification that Tenant has sufficient funds available to cover the cost of construction (including fixturation) of the Restaurant.

8. **Insurance; Indemnity.**

8.1 **Liability Insurance.**

(a) **Carried by Tenant.** Tenant must obtain and keep in force during the term of this Lease a broad form Commercial General Liability policy of insurance protecting Tenant, Landlord, and any ground lessors (as additional insureds) against claims for bodily injury, personal injury and property damage based upon, involving or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant to them. The insurance will be on an occurrence basis providing single limit coverage in an amount not less than \$3,000,000 per occurrence. The policy may not contain any intra-insured exclusions as between insured people or organizations, and must include coverage for liability assumed under this Lease as an "insured contract" for the performance of Tenant's indemnity obligations under this Lease. The limits of the insurance required by this Lease or carried by Tenant shall not, however, limit the liability of Tenant nor relieve Tenant of any obligation hereunder. All insurance to be carried by Tenant shall be primary to and not contributory with any similar insurance carried by Landlord, whose insurance will be considered excess insurance only.

(b) **Carried By Landlord.** Landlord may, at its option, maintain liability insurance, in addition to, and not in lieu of, the insurance required to be maintained by Tenant. Tenant will not be named as an additional insured in it, and the maintenance of the insurance by Landlord will not relieve Tenant of its obligations under this paragraph.

8.2 **Property Insurance -- Building, Improvements and Rental Value.**

(a) **Building and Improvements.** Tenant must obtain and keep in force during the term of this Lease a policy or policies of all risk insurance (including the perils of flood and/or earthquake, and also including coverage for any additional costs resulting from debris removal and reasonable amounts of coverage for the enforcement of any ordinance or law regulating the reconstruction or replacement of any undamaged sections of the Premises required to be demolished or removed by reason of the enforcement of any building, zoning, safety or land use laws as the result of a covered cause of loss), with loss payable to Landlord and to the holders of any mortgages, deeds of trust or ground Leases on the Premises. The amount of the insurance must be equal to the full replacement cost of the Premises, as the same exists from time to time, or the amount required by lenders. If the insurance coverage has a deductible clause, the deductible amount may not exceed \$1,000 per occurrence, and Tenant will be liable for any deductible amount in the event of an insured loss. In the event of an insured loss, Landlord will make available to Tenant all proceeds of insurance policies maintained by Tenant for the casualty under this Lease, but Tenant will be responsible for any shortage in the proceeds, whether resulting from any lack or insufficiency of coverage, deductibles, or otherwise, and Landlord may require that Tenant provide it with reasonable assurances as to the availability of any such shortage before releasing any insurance proceeds. Any repair or restoration, including procedures for the release of insurance proceeds, will be subject to any reasonable requirements as Landlord may impose.

(b) **Rental Value.** Tenant must, in addition, obtain and keep in force during the term of this Lease a policy or policies in the name of Landlord, with loss payable to Landlord and lenders, insuring the loss of the full rental and other charges payable by Tenant to Landlord under this Lease for one (1) year (including all real estate taxes, insurance premium costs, and any scheduled rental increases).

8.3 **Tenant's Property Insurance.** Tenant must maintain insurance coverage on all of Tenant's personal property in, on, or about the Premises similar in coverage to that carried by Tenant under paragraph 8.2(a). This insurance will be full replacement cost coverage with a deductible of not to exceed \$1,000 per occurrence. The proceeds from any such insurance will be used by Tenant for the replacement of personal property.

8.4 **Insurance Policies.** Insurance required under this agreement must be by companies properly licensed to transact business in the state where the Premises are located, and maintaining during the policy term a "General Policyholders Rating" of at least A, VII, or any other rating that may be required by any lenders having a lien on the Premises, as stated in the most current issue of "Best's Insurance Guide." Tenant may not do or permit to be done anything which will invalidate the insurance policies referred to in this paragraph 8. Tenant must cause to be delivered to Landlord certified copies of policies of any insurance or certificates evidencing the existence and amounts of the insurance with the insureds and loss payable clauses as required by this Lease. Any certificate of insurance must indicate that a waiver of subrogation has been included in the policy. No such policy may be cancelable or subject to modification except after thirty (30) days prior written notice to Landlord. Tenant must at least thirty (30) days prior to the expiration of the policies, furnish Landlord with evidence of renewals or "insurance binders" evidencing renewal of them. If Tenant fails to procure and maintain the insurance required to be carried by the Tenant under this Lease, Landlord may, but will not be required to, procure and maintain the same, but at Tenant's expense.

8.5 **Waiver of Subrogation.** All policies of insurance required under this agreement must include a clause or endorsement denying the insurer any rights of subrogation against the other party. Landlord and Tenant waive any rights of recovery against the other for injury or loss due to hazards covered by policies of insurance to the extent of the injury or loss covered by it.

8.6 **Indemnity.** Except for losses caused by Landlord's gross negligence or wilful misconduct, Tenant must indemnify, protect, defend and hold harmless the Premises, Landlord and its agents, constituent parties, shareholders, officers, directors, employees and lenders, from and against any and all claims, damages, costs, liens, judgments, penalties, permits, attorney's and consultant's fees, expenses and/or liabilities arising out of, involving, or in dealing with, the occupancy of the Premises by Tenant, the conduct of Tenant's business, any act, omission or neglect of Tenant, its agents, contractors, employees or invitees, and out of any default or breach by Tenant in the performance in a timely manner of any obligation on Tenant's part to be performed under this Lease. The foregoing will include, but not be limited to the defense or pursuit of any claim or any action or proceeding involved in it, and whether or not (in the case of claims made against Landlord) litigated and/or reduced to judgment, and whether well founded or not. In case any action or proceeding be brought against Landlord by reason of any of the foregoing matters, Tenant upon notice from Landlord must defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord and Landlord will cooperate with Tenant in the defense. Landlord need not have first paid any such claim to be so indemnified.

9. **Damage or Destruction.**

9.1 **Damage or Destruction.** If the Premises are damaged or destroyed, whether partially or totally, and whether or not the damage or destruction was caused by an event required to be covered by insurance, this Lease will continue in full force and effect. Tenant must give Landlord immediate notice of any such damage or destruction. Except as provided below, Tenant must, as soon as reasonably possible, repair or restore the Premises to the condition which existed immediately prior to the event which caused the damage or destruction, subject to any upgrading or other changes required by Applicable Law.

9.2 **Effect on Rent.** Tenant's obligations to pay rent and other charges due under this Lease will continue in spite of any damage or destruction of the Premises (unless the Lease is terminated by Landlord in accordance with the provisions of this Lease). In spite of the foregoing, rent will be abated during any period of repair or restoration to the extent that Landlord actually collects the proceeds of any Rental Value insurance.

9.3 **Damage Near End of Term.** If at any time during the last twelve (12) months of the term of this Lease there is damage for which the cost to repair exceeds one (1) month's rent, whether or not an insured loss, Landlord may, at Landlord's option, terminate this Lease effective sixty (60) days following the date of occurrence of the damage by giving written notice to Tenant of Landlord's election to do so within thirty (30) days after the date of occurrence of the damage. However, if Tenant at that time has an exercisable Option to extend this Lease, then Tenant may preserve this Lease by, within twenty (20) days following the occurrence of the damage, or before the expiration of the time provided in the Option for its exercise, whichever is earlier ("Exercise Period"), (i) exercising the Option and (ii) providing Landlord with any shortage in insurance proceeds (or adequate assurance of them) needed to make the repairs. If Tenant properly exercises the Option during the Exercise Period and provides Landlord with funds (or adequate assurance of them) to cover any shortage in insurance proceeds, this Lease will continue in full force and effect. If Tenant fails to exercise the Option or provide the funds or assurance during the Exercise Period, then Landlord may at Landlord's option terminate this Lease as of the expiration of the sixty (60) day period.

10. **Real Property Taxes.**

10.1 (a) **Payment of Taxes.** Tenant must pay the Real Property Taxes, as defined below, applicable to the Premises during the term of this Lease. ^ If any such taxes to be paid by Tenant cover any period of time prior to or after the expiration or earlier termination of the term of this Lease, Tenant's share of the taxes will be equitably prorated to cover only the period of time within the tax fiscal year this Lease is in effect, and Landlord will reimburse Tenant for any overpayment after the proration. If Tenant fails to pay any Real Property Taxes required by this Lease to be paid by Tenant, Landlord will have the right to pay the same, and Tenant must reimburse Landlord for it upon demand.

(b) **Advance Payment.** ^ Landlord reserves the right, at Landlord's option, to either: (i) require the current year's Real Property Taxes to be paid in a lump sum amount equal to the installment due, at least twenty (20) days prior to the applicable delinquency date, in which case Landlord will provide Tenant copies (or the originals) of any bills for Real Property Taxes so as to enable Tenant to comply with its obligations under this agreement and Tenant must promptly furnish Landlord with satisfactory evidence that the taxes have been paid; or (ii) estimate the current Real Property Taxes applicable to the Premises, and to require the current year's Real Property Taxes to be paid in ^1/12 per month together with the payment of the rent. If Landlord elects to require payment monthly in advance, the monthly payment will be that equal monthly amount which, over the number of months remaining before the month in which the applicable tax installment would become delinquent (and without interest on it), would provide a fund large enough to fully discharge before delinquency the estimated installment of taxes to be paid. When the actual amount of the applicable tax bill is known, the amount of the equal monthly advance payment will be adjusted as required to provide the fund needed to pay the applicable taxes before delinquency. If the amounts paid to Landlord by Tenant under the provisions of this paragraph are insufficient to discharge the obligations of Tenant to pay the Real Property Taxes as the same become due, Tenant must pay Landlord, upon Landlord's demand, any additional sums that are necessary to pay the obligations. All moneys paid to Landlord under this paragraph may be intermingled with other moneys of Landlord and will not bear interest.

10.2 **Definition of "Real Property Taxes".** As used in this Lease, the term "Real Property Taxes" will include any form of real estate tax or assessment, general, special, ordinary or extraordinary, imposed upon the Premises by any authority having the direct or indirect power to tax, including any improvement district, city, county, state or federal government.

10.3 **Personal Property Taxes.** Tenant will pay prior to delinquency, any tax on Tenant's Trade Fixtures, furnishings, equipment and all personal property of Tenant contained in the Premises or elsewhere. When possible, Tenant will cause its Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Landlord.

11. **Utilities.** Tenant will be solely responsible for procuring and paying for any and all utility services which Tenant may require in its use and operation of the Premises including, but not limited to electricity,

natural gas, oil, water, heat, light, trash disposal and telephone service. Tenant will also be responsible for any hook-ups or other installations required to obtain any of the utility services.

12. **Assignment and Subletting.**

12.1 **Landlord's Consent Required.**

(a) Tenant may not voluntarily or by operation of law assign or transfer (collectively, "assignment") or sublet all or any part of Tenant's interest in this Lease or in the Premises without Landlord's prior written consent, which consent may not be unreasonable withheld, conditioned, or delayed.

12.2 **Terms and Conditions Applicable to Assignment and Subletting.**

(a) Regardless of Landlord's consent, any assignment or subletting will not: (i) be effective without the express written assumption by the assignee or sublessee of the obligations of Tenant under this Lease, (ii) release Tenant of any obligations under this agreement, or (iii) alter the primary liability of Tenant for the payment of rent and other sums due Landlord under this agreement or for the performance of any other obligations to be performed by Tenant under this Lease.

(b) Landlord may accept any rent or performance of Tenant's obligations from any person other than Tenant pending approval or disapproval of an assignment or subletting. Neither a delay in the approval or disapproval, nor the acceptance of any rent or performance, will constitute a waiver or estoppel of Landlord's right to exercise its remedies for the default or breach by Tenant of any of the terms, covenants or conditions of this Lease.

(c) The consent of Landlord to any assignment or subletting will not constitute a consent to any subsequent assignment or subletting by Tenant or to any subsequent or successive assignment or subletting by the sublessee.

(d) Each request for consent to an assignment or subletting will be in writing, and Tenant will provide Landlord any information (including tax returns and financial statements of the proposed assignee or sublessee) reasonably requested by Landlord to evaluate the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, together with a non-refundable deposit of \$250 as reasonable consideration for Landlord's considering and processing the request for consent.

(e) Any assignee of, or sublessee will be considered to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation to be observed or performed by Tenant during the term of this Lease, other than any obligations as to which Landlord has specifically consented in writing.

12.3 **Leasehold Mortgage.**

(a) Tenant may mortgage, encumber, or convey its leasehold estate under this Lease to a lender as security for the repayment of a loan. The term "lender" as used in this Lease will mean any beneficiary, mortgagee, secured party, or other holder of a promissory note or other written obligation which is secured by any deed of trust, mortgage or other written security agreement ("Leasehold Mortgage").

(b) With respect to any lender who has delivered to Landlord a written notice which states the name, address and a general description of the type of lien it holds on the leasehold estate, the following provisions will apply:

(i) Landlord when giving notice to Tenant with respect to any default or termination under the provisions of this Lease must also serve a copy of the notice upon any lender, and no such notice to Tenant will be effective unless and until a copy of the notice is so served upon lender. All acts or things done and performed by lender to cure any default will be accepted by Landlord and be as effective to cure any default as if done or performed by Tenant.

(ii) Lender may acquire and succeed to the interest of Tenant under this agreement by foreclosure of the Leasehold Mortgage or by deed in lieu of foreclosure and may assign the leasehold estate to a purchaser from lender. However, any person acquiring the leasehold estate must sign an agreement assuming Tenant's obligations under this Lease. Upon signing of an assumption agreement by any person acquiring the leasehold estate from lender, lender must thereupon be released from any further liability under the Lease.

(iii) In the event of a default by Tenant in the payment of rent or other sum, lender may pay the rent or other sum to Landlord; and in spite of anything in this Lease to the contrary, lender's right to prevent the termination or forfeiture will exist for a period of thirty (30) days after expiration of the period during which Tenant may cure a default in payment of rent.

13. **Default; Breach; Remedies.**

13.1 **Default.** Landlord and Tenant agree that if an attorney is consulted by Landlord in connection with a Tenant default or breach of this Lease, \$350 is a reasonable sum per such occurrence for legal services and costs in the preparation and service of notice of default or breach, and Landlord may include the sum of \$350.00 in the notice as rent due and payable to cure the default. A "default" is defined as a failure by the Tenant to observe, comply with or perform any of the terms, covenants, conditions or rules applicable to Tenant under this Lease, or the occurrence of any one or more of the following events:

(a) The vacating of the Premises without the intention to reoccupy same, or the abandonment of the Premises.

(b) Except as expressly otherwise provided in this Lease, the failure by Tenant to make any payment of rent or any other monetary payment required to be made by Tenant under this agreement, whether to Landlord or to a third party, as and when due, where the failure continues for a period of three (3) days following written notice by or on behalf of Landlord to Tenant.

(c) A failure by Tenant to comply with any of the terms, covenants, conditions or provisions of this Lease that are to be observed, complied with or performed by Tenant, other than those described in subparagraphs (a) or (b), above, where the default continues for a period of thirty (30) days after written notice by or on behalf of Landlord to Tenant. However, if the nature of Tenant's default is such that more than thirty (30) days are reasonably required for its cure, then it will not be considered to be a breach of this Lease by Tenant if Tenant begins the cure within the thirty (30) day period and thereafter diligently prosecutes the cure to completion.

(d) The occurrence of any of the following events: (i) The making by lessee of any general arrangement or assignment for the benefit of creditors; (ii) Tenant's becoming a "debtor" as defined in 11 U.S.C. 101 or any successor statute to it (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); (iii) the appointment of a trustee or receiver 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. However, if any provision of this subparagraph (d) is contrary to any Applicable Law, the provision will be of no force or effect and will not affect the validity of the remaining provisions.

(e) The discovery by Landlord that any financial statement given to Landlord by Tenant or any Guarantor was materially false when given.

(f) Termination, for any reason of the FARMER BOYS® Franchise Agreement for the Restaurant to be operated in the Premises.

(g) If the performance of Tenant's obligations under this Lease is guaranteed: (i) the termination of a guarantor's liability with respect to this Lease other than in accordance with the terms of the guaranty, (ii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iii) a Guarantor's refusal to honor the guaranty, or (iv) a Guarantor's breach of its guaranty obligation on an anticipatory breach

basis, and Tenant's failure, within sixty (60) days following written notice by or on behalf of Landlord to Tenant of any the event, to provide Landlord with written alternative assurance or security, which, when coupled with the then existing resources of Tenant, equals or exceeds the combined financial resources of Tenant and the Guarantors that existed at the time of signing of this Lease.

13.2 **Remedies.** If Tenant fails to perform any obligation under this Lease Landlord may at its option (but without obligation to do so), perform the obligation on Tenant's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. The costs and expenses of any such performance by Landlord will be due and payable by Tenant to Landlord upon invoice. If any check given to Landlord by Tenant is not honored by the bank upon which it is drawn, Landlord, at its option, may require all future payments to be made under this Lease by Tenant to be made only by cashier's check. If of a default under this Lease by Tenant, and without limiting Landlord in the exercise of any right or remedy which Landlord may have by reason of the default, Landlord may:

(a) Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease and the term of this Lease will terminate and Tenant will immediately surrender possession of the Premises to Landlord. In that event, Landlord will be entitled to receive from Tenant: (i) the worth at the time of the award of the unpaid rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which termination until the time of award exceeds the amount of any rental loss that the Tenant proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of any rental loss that the Tenant proves could be reasonably avoided, and (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by the Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result from it, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorney fees, and that portion of any leasing commission paid by Landlord applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the prior sentence will be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%). Efforts by Landlord to mitigate damages caused by Tenant's default or breach of this Lease will not waive Landlord's right to recover damages under this paragraph. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Landlord will have the right to recover in the proceeding the unpaid rent and damages that are recoverable in it, and Landlord will also have the right to recover additional rent or damages in a separate suit for the rent and/or damages.

(b) Continue the Lease and Tenant's right to possession in effect (in California under California Civil Code Section 1951.4) after Tenant's breach and abandonment and recover the rent as it becomes due.

(c) Pursue any other remedy now or hereafter available to Landlord under the laws or judicial decisions of the state wherein the Premises are located.

(d) The expiration or termination of this Lease and/or the termination of Tenant's right to possession will not relieve Tenant from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term of this Lease or by reason of Tenant's occupancy of the Premises.

13.3 **Late Charges.** If any installment of rent or any other sum due from Tenant is not received by Landlord within five (5) days after the amount is due, then, without any requirement for notice to Tenant, Tenant must pay Landlord a late charge equal to six percent (6%) of the overdue amount. Acceptance of the late charge by Landlord will in no event constitute a waiver of Tenant's default or breach with respect to the overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted under this agreement. If a late charge is payable under this agreement, whether or not collected, for three (3)

consecutive installments of rent, then in spite of any other provision of this Lease to the contrary, rent must, at Landlord's option, become due and payable quarterly in advance.

13.4 **Breach by Landlord.** Landlord will not be considered in breach of this Lease unless Landlord fails within a reasonable time to perform an obligation required to be performed by Landlord. For purposes of this paragraph, a reasonable time will in no event be less than thirty (30) days after receipt by Landlord, and by any lenders whose names and addresses have been furnished by Tenant in writing for that purpose, of written notice specifying what obligation of Landlord has not been performed. However, if the nature of Landlord's obligation is such that more than thirty (30) days after the notice are reasonably required for its performance, then Landlord will not be in breach of this Lease if performance is begun within the thirty (30) day period and thereafter diligently pursued to completion.

14. **Condemnation.** If all or any part of the Premises is appropriated or condemned by any public or quasi-public authority in the exercise of its right of condemnation or eminent domain, then the following will apply.

14.1 **Insubstantial Taking.** If the taking is such that no portion of the interior of the building comprising the Premises is taken and the number of parking spaces servicing the Premises is not reduced, then (i) Landlord will be entitled to the entire award, however denominated, of the condemning authority, (ii) Landlord must repair any damages caused by the taking, and (iii) there will be no reduction or abatement in rent.

14.2 **Partial Taking.** If the taking is such that some portion of the interior of the building comprising the Premises is taken or the number of parking spaces servicing the Premises is reduced, but it is commercially reasonable to repair any damage and continue with the business being conducted by the Tenant at the Premises, then (i) Tenant will be entitled to any portion of the award allocated to the value of any of Tenant's furniture, fixtures or equipment taken, plus any portion of the award allocated to the costs of repairs to the Premises. However, Tenant must repair the damages to the Premises resulting from the taking at Tenant's sole costs and expense; and further provided that the portion of the award allocated to the costs of such repair be deposited into an escrow account, under the control of Landlord and Tenant, to insure that the funds are expended to cover the costs of repair, (ii) Landlord will be entitled to any other aspects of the award, however denominated, and (iii) comparing the gross sales from the Premises for the six calendar month period following the completion of any repairs with the same six calendar months period immediately before the taking, if there is a reduction in sales of 5% or more, then the rent will be reduced, retroactive to the date of the taking of the Premises by the condemning authority, by an amount equal to the percentage of lost sales; otherwise, there will be no other reduction or abatement in rent.

14.3 **Complete Taking.** If the taking is such that it is not commercially reasonable to repair the damage caused by the taking so as to continue with the business being conducted by the Tenant at the Premises, then this Lease will terminate as of the date of the taking of the Premises by the condemning authority. Except as stated below, the Landlord will be entitled to any and all aspects of the award, however denominated. Tenant will be entitled to any portion of the award allocated to the value of any of Tenant's furniture, fixtures or equipment taken, plus any portion of the award allocated to the costs of moving. Tenant will also be entitled to that portion of any award necessary to compensate it for the "unamortized value" of the improvements to the Premises constructed and paid for by Tenant. To determine the "unamortized value" of the Tenant's improvements, Tenant will use the amortization schedules on Tenant's first federal income tax return following completion of construction of the improvements.

15. **Brokers.**

Tenant and Landlord each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder in the negotiation of this Lease and/or the consummation of the transaction contemplated hereby, and that no broker or other person, firm or entity other than the named Brokers is entitled to any commission or finder's fee in the transaction. Tenant and Landlord do each hereby agree to

indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying party, including any costs, expenses, attorney fees reasonably incurred with respect to them.

16. **Tenancy Statement.**

16.1 Tenant will, within ten (10) days after written notice from Landlord, sign, acknowledge and deliver to Landlord a statement in writing certifying: (i) that none of the terms or provisions of this Lease have been changed (or if they have been changed, stating how they have been changed); (ii) that this Lease has not been canceled or terminated; (iii) that the last date of payment of the rent and other charges and the time period covered by the payments; (iv) that Landlord is not in default under this Lease (or, if Landlord is claimed to be in default, stating why), and (v) any other information that may be reasonably requested by Landlord relative to this Lease. Any such statement by Tenant may be given by Landlord to any prospective purchaser or encumbrancer of the Premises and the purchaser or encumbrancer may rely conclusively upon the statement as true and correct.

16.2 If Tenant does not deliver the statement to Landlord within the ten (10) day period, in addition to the remedies of Landlord under paragraph 13.1, Landlord, and any prospective purchaser or encumbrancer, may conclusively presume and rely upon the following facts: (i) that the terms and conditions of this Lease have not been changed except as otherwise represented by Landlord; (ii) that this Lease has not been canceled or terminated except as otherwise represented by Landlord; (iii) that not more than one month's rent or other charges have been paid in advance; and (iv) that Landlord is not in default under the Lease. In that event, Tenant will be estopped from denying the truth of the facts.

16.3 If Landlord wishes to finance, refinance, or sell the Premises, any part of them, or the building of which the Premises are a part, Tenant will deliver to any potential lender or purchaser designated by Landlord any financial statements of Tenant that may be reasonably required by the lender or purchaser, including but not limited to Tenant's financial statements for the past three (3) years. All the financial statements will be received by Landlord and such lender or purchaser in confidence and will be used only for the purposes in this Lease stated.

17. **Landlord's Liability.** The term "Landlord" that used in this Lease will mean the owner or owners at the time in question of the fee title to the Premises. If of a transfer of Landlord's fee title or interest in the Premises, Landlord will deliver to the transferee or assignee (in cash or by credit) any unused security deposit held by Landlord at the time of the transfer or assignment. Upon the transfer or assignment and delivery of the security deposit, the prior Landlord will be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Landlord, and the transferee of Landlord will be considered to have assumed all of the obligations under this Lease to be performed by Landlord from and after the date of the transfer.

18. **Severability.** The invalidity of any provision of this Lease, that determined by a court of competent jurisdiction, will in no way affect the validity of any other provision of this Lease.

19. **Interest on Past-Due Obligations.** Any monetary payment due Landlord under this agreement, other than late charges, not received by Landlord within thirty (30) days following the date on which it was due, will bear interest from the date it was due at the rate of 10% per year.

20. **Time of Essence.** Time is of the essence with respect to the performance of all obligations to be performed or observed by the parties under this Lease.

21. **Rent Defined.** All monetary obligations of Tenant to Landlord under the terms of this Lease are considered to be rent.

22. **No Prior or Other Leases.** This Lease contains all agreements between the parties with respect to any matter mentioned in this Lease and no other prior or contemporaneous agreement or understanding will be effective.

23. **Notices.** Any notice or demand which either party would like to give to the other under the provisions of this Lease will be in writing and either personally delivered, or sent by first class or certified mail or overnight courier, to the parties at the addresses stated above. Either party may change its address for notice by giving notice in the manner stated above.

24. **Waivers.** No waiver by Landlord of the default or breach of any term, covenant or condition of this Lease by Tenant, will be considered a waiver of any other term, covenant or condition of this Lease, or of any subsequent default or breach by Tenant of the same or of any other term, covenant or condition of this Lease. Landlord's consent to, or approval of, any act will not be considered to render unnecessary the obtaining of Landlord's consent to, or approval of, any subsequent or similar act by Tenant, or be construed that the basis of an estoppel to enforce the provision of provisions of this Lease requiring the consent. Regardless of Landlord's knowledge of a default or breach at the time of accepting rent, the acceptance of rent by Landlord will not be a waiver of any preceding default or breach by Tenant of any provision of this Lease, other than the failure of Tenant to pay the particular rent so accepted.

25. **Memorandum of Lease.** Landlord and Tenant agree to sign a Memorandum of Lease, and to cause the same to be recorded, within ten (10) days of demand by either party.

26. **Cumulative Remedies.** No remedy or election under this agreement will be considered exclusive but will, wherever possible, be cumulative with all other remedies at law or in equity.

27. **Covenants and Conditions.** All provisions of this Lease to be observed or performed by Tenant are both covenants and conditions.

28. **Binding Effect -- Choice of Law.** This Lease will be binding upon the parties, their personal representatives, successors and assigns (subject to the restrictions on assignment in this Lease) and be governed by the laws of the State in which the Premises are located. Any litigation between the parties to this agreement concerning this Lease will be initiated in the county in which the Premises are located.

29. **Subordination; Attornment; Non-Disturbance.**

29.1 **Subordination.** This Lease and any Options granted hereby will be subject and subordinate to any mortgage, deed of trust, or other hypothecation or security device (collectively, "Security Device"), now or hereafter placed by Landlord upon the real property of which the Premises are a part, to any and all advances made on the security of them, and to all renewals, modifications, consolidations, replacements and extensions of them. Tenant agrees that it will give notice of Landlord's default to any lender whose name and address have been furnished Tenant in writing for the purpose. If any lender will elect to have this Lease and/or any Options granted hereby superior to the lien of its Security Device and will give written notice of them to Tenant, either before or after the foreclosure of the Security Device, this Lease and the Options will be considered prior to the Security Device, in spite of the relative dates of the documentation or recordation of them.

29.2 **Attornment.** Subject to the non-disturbance provisions stated below, Tenant agrees to attorn to Landlord's lender or any other party who acquires ownership of the Premises by reason at a foreclosure of a Security Device, and that in the event of the foreclosure, the new owner will not: (i) be liable for any act or omission of any prior Landlord or with respect to events occurring prior to acquisition of ownership by the new owner, (ii) be subject to any offsets or defenses which Tenant might have against any prior Landlord, or (iii) be bound by prepayment of more than one (1) month's rent.

29.3 **Non-Disturbance.** With respect to Security Devices entered into by Landlord after the signing of this Lease, Tenant's subordination of this Lease and its obligation to attorn will be subject to the

condition that Tenant's possession of the Premises and this Lease, including any Options to extend the term of this Lease, will not be disturbed so long that Tenant faithfully performs its obligations under this Lease.

29.4 **Self-Signing.** The agreements contained in this paragraph of this Lease will be effective without the signing of any further documents. However, upon written request from Landlord or a lender in a sale, financing or refinancing of the Premises, Tenant and Landlord will sign any further writings that may be reasonably required to separately document any subordination or non-subordination, attornment or non-disturbance agreement that is provided for in this Lease.

30. **Attorney fees.** If any party brings an action or proceeding to enforce the terms of this Lease or declare rights under this agreement, the Prevailing party will be entitled to reasonable attorney fees and costs of suit. Landlord will be entitled to attorney fees, costs and expenses incurred in the preparation and service of notices of default and consultations in connection with them, whether or not a legal action is subsequently begun in the default or resulting breach. Landlord will also be entitled to attorney fees, costs and expenses incurred in any bankruptcy proceeding involving Tenant, including relief from stay litigation.

31. **Landlord's Access -- Showing Premises; Repairs.** Landlord and Landlord's agents will have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times for the purpose of showing the same to prospective purchasers, lenders, or lessees, and making any alterations, repairs, improvements or additions to the Premises or to the building of which they are a part, that Landlord may reasonably consider necessary. Landlord may at any time place on or about the Premises or building any ordinary "For Sale" signs and Landlord may at any time during the last one hundred eighty(180) days of the term of this Lease place on or about the Premises any ordinary "For Lease" signs. All such activities of Landlord will be without abatement of rent or liability to Tenant.

32. **Signs.** Tenant will not place any sign upon the Premises, except any signs that are reasonably required to advertise Tenant's own business. The installation of any sign on the Premises by or for Tenant will be subject to any Applicable Laws.

33. **Termination, Merger.** Unless specifically stated otherwise in writing by Landlord, the voluntary or other surrender of this Lease by Tenant, the mutual termination or cancellation of this Lease, or a termination of this Lease by Landlord for breach by Tenant, will automatically terminate any sublease of lesser estate in the Premises. However, Landlord will, if of any such surrender, termination or cancellation, have the option to continue any one or all of any existing subtenancies. Landlord's failure within ten (10) days following any such event to make a written election to the contrary by written notice to the holder of any such lesser interest, will constitute Landlord's election to have the event constitute the termination of the interest.

34. **Consents.** Except that otherwise provided in this Lease, wherever in this Lease the consent of a party is required to an act by or for the other party, the consent will not be unreasonably withheld or delayed.

35. **Guarantors.** If there any Guarantors of this Lease, each the Guarantor will have the same obligations that Tenant under this Lease. It will constitute a default of the Tenant under this Lease if any such Guarantor fails or refuses, upon reasonable request by Landlord to give: (a) current financial statements of Guarantor that may from time to time be requested by Landlord, (b) a Tenancy Statement, or (c) written confirmation that the guaranty is still in effect.

36. **Quiet Possession.** Upon payment by Tenant of the rent for the Premises and the observance and performance of all of the covenants, conditions and provisions on Tenant's part to be observed and performed under this Lease, Tenant will have quiet possession of the Premises for the entire term of this Lease subject to all of the provisions of this Lease.

37. **Options.**

37.1 **Multiple Options.** If Tenant has any Multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options to extend or renew this Lease have been validly exercised.

37.2 **Effect of Default on Options.** Tenant will have no right to exercise an Option, in spite of any provision in the grant of Option to the contrary: (i) during the period beginning with the giving of any notice of default under this Lease and continuing until the noticed default is cured, or (ii) if Landlord has given to Tenant five (5) or more written notices of default under this Lease, whether or not the defaults are cured, at any time during the five (5) years immediately preceding the date that Tenant gives written notice of its exercise of its Option to extend the term of this Lease. The period of time within which an Option may be exercised will not be extended or enlarged by reason of Tenant's inability to exercise an Option because of the provisions of this sub-paragraph.

38. **Security Measures.** Tenant hereby acknowledges that the rental payable to Landlord under this agreement does not include the cost of guard service or other security measures, and that Landlord will have no obligation whatsoever to provide same. Tenant assumes all responsibility for the protection of the Premises, Tenant, its agents and invitees and their property from the acts of third parties.

39. **Reservations.** Landlord reserves to itself the right, from time to time, to grant, without the consent or joinder of Tenant, any easements, rights and dedications that Landlord considers necessary, and to cause the recordation of parcel maps and restrictions, so long that the easements, rights, dedications, maps and restrictions do not unreasonably interfere with the use of the Premises by Tenant. Tenant agrees to sign any documents reasonably requested by Landlord to effectuate any such easement rights, dedication, map or restrictions.

40. **Performance Under Protest.** If at any time a dispute will arise that to any amount or sum of money to be paid by one party to the other under the provisions of this Lease, the party against whom the obligation to pay the money is asserted will have the right to make payment "under protest" and the payment will not be regarded that a voluntary payment and there will survive the right on the part of the party to institute suit for recovery of the sum.

41. **Authority.** If either party to this agreement is a corporation, trust, general or limited partnership, or limited liability company or partnership, each individual signing this Lease on behalf of the entity represents and warrants that he or she is properly authorized to sign and deliver this Lease on its behalf. If Tenant is a corporation, trust, general or limited partnership, or limited liability company or partnership, Tenant will, within thirty (30) days after request by Landlord, deliver to Landlord evidence satisfactory to Landlord of the authority.

42. **Conflict.** Any conflict between the pre-printed provisions of this Lease and any typewritten or handwritten provisions will be controlled by the typewritten or handwritten provisions.

43. **Offer.** Preparation of this Lease by Landlord or Tenant and the exchange of comments or drafts of this Lease will not be considered a contract between the parties. This Lease is not intended to be binding unless and until it is signed by all parties to this agreement.

44. **Amendments.** This Lease may be modified only in writing, signed by the parties in interest at the time of the modification. That long that they do not materially change Tenant's obligations under this agreement, Tenant agrees to make the reasonable non-monetary modifications to this Lease that may be reasonably required by an institutional, insurance company, or pension plan lender in the obtaining of normal financing or refinancing of the property of which the Premises are a part.

45. **Multiple Parties.** Except that otherwise expressly provided in this Lease, if more than one person or entity is named in this Lease that either Landlord or Tenant, the obligations of the multiple parties will be the joint and several.

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IN WITNESS TO WHICH, Landlord and Tenant have signed this Lease as of the date stated above.

HAVADJIA HOLDINGS, INC.

By: ^ _____

Print ^Name: ^ _____

Print Title: _____

3425 University Avenue
Riverside CA 92501
951/275-9900
951/275-9930 fax

TENANT

^ _____

By: ^ _____

Print Name: ^ _____

Title, if any: ^ _____

Address:

^ _____

^ _____