

SECOND AMENDED AND RESTATED LEASE AGREEMENT

THIS SECOND AMENDED AND RESTATED LEASE AGREEMENT (this "Lease") is made as of August 30, 2019 ("Effective Date") by and between **STORE MASTER FUNDING II, LLC**, a Delaware limited liability company ("Lessor"), whose address is 8377 E. Hartford Drive, Suite 100, Scottsdale, Arizona 85255, and **AB GILLETTE WY LLC**, a Wyoming limited liability company ("Lessee"), whose address is 2999 N. 44th Street, Suite 400, Phoenix, Arizona 85018. Capitalized terms not defined herein shall have the meanings set forth in Exhibit A hereto.

This Lease amends and restates in its entirety that certain Amended and Restated Lease Agreement dated March 1, 2018, as amended by that certain First Amendment to Amended and Restated Lease Agreement, together with any and all other amendments thereto (the "Original Lease") by and between Lessor and Lessee. The terms of the Original Lease shall remain in force and effect as to the period ending on 11:59 P.M. prior to the Effective Date hereof. The terms contained in this Lease shall apply to and be effective with respect to the period from and after the Effective Date, without novation, replacement or substitution of the Original Lease, and the leasehold estate of Lessee shall mean the leasehold estate commencing under the Original Lease.

In consideration of the mutual covenants and agreements herein contained, Lessor and Lessee hereby covenant and agree as follows:

ARTICLE I

BASIC LEASE TERMS

Section 1.01. Property. The street address of the Property is set forth on Exhibit B attached hereto.

Section 1.02. Initial Term Expiration Date. August 31, 2034.

Section 1.03. Extension Options. Four (4) extensions of five (5) years each, as described in Section 3.02.

Section 1.04. Term Expiration Date (if fully extended). August 31, 2054.

Section 1.05. Base Annual Rental. \$187,020.00, as described in Article IV.

Section 1.06. Rental Adjustment. The lesser of (i) 1.50%, or (ii) 1.25 times the change in the Price Index, as described in Section 4.02.

Section 1.07. Adjustment Date. November 1, 2019 and every annual anniversary thereafter during the Lease Term (including any Extension Term).

Section 1.08. Security Deposit. \$75,000, subject to the terms of Section 4.10.

Section 1.09. Guarantor(s). RMH Franchise Holdings, Inc., a Delaware corporation, RMH Franchise Corporation, a Kansas corporation, Goalz Restaurant Group, LLC, a Wyoming limited liability company and Goalz 4 LLC, a Delaware limited liability company, Shawn Eby, an individual and Corey Hupp, an individual.

Section 1.10. Lessee Tax Identification No. 84-2065484.

Section 1.11. Lessor Tax Identification No. 80-0804947.

ARTICLE II

LEASE OF PROPERTY

Section 2.01. Lease. In consideration of Lessee's payment of the Rental and other Monetary Obligations and Lessee's performance of all other obligations hereunder, Lessor hereby leases to Lessee, and Lessee hereby takes and hires, the Property, "AS IS" and "WHERE IS" without representation or warranty by Lessor except as set forth herein, and subject to any statement of facts which a physical inspection might reveal, and all Legal Requirements now or hereafter in effect.

Section 2.02. Quiet Enjoyment. So long as Lessee shall pay the Rental and other Monetary Obligations provided in this Lease, and shall keep and perform all of the terms, covenants and conditions on its part contained herein, Lessee shall have, subject and to the terms and conditions set forth herein, the right to the peaceful and quiet enjoyment and occupancy of the Property.

ARTICLE III

LEASE TERM; EXTENSION

Section 3.01. Initial Term. The remaining term of this Lease ("Initial Term") shall expire at midnight on August 31, 2034 ("Expiration Date"), unless terminated sooner as provided in this Lease and as may be extended as provided herein. The time period during which this Lease shall actually be in effect, including any Extension Term, is referred to as the "Lease Term."

Section 3.02. Extensions. Unless this Lease has expired or has been sooner terminated, or an Event of Default has occurred and is continuing at the time any extension option is exercised, and provided that the Franchise Agreement necessary to the continued operation of Lessee's business at the Property are extended (or otherwise have a remaining term) for a period of not less than the applicable extension periods, Lessee shall have the right and option (each, an "Extension Option") to extend the Initial Term for four (4) additional successive periods of five (5) years each (each, an "Extension Term"), pursuant to the terms and conditions of this Lease then in effect.

Section 3.03. Notice of Exercise. Lessee may only exercise the Extension Options by giving written notice thereof to Lessor of its election to do so no later than one hundred twenty (120) days prior to the Expiration Date and one hundred twenty (120) days prior to the immediately preceding Extension Term, as the case may be. If written notice of the exercise of any Extension Option is not received by Lessor by the applicable dates described above, then

this Lease shall terminate on the last day of the Initial Term or, if applicable, the last day of the Extension Term then in effect. Upon the request of Lessor or Lessee, the parties hereto will, at the expense of Lessee, execute and exchange an instrument in recordable form setting forth the extension of the Lease Term in accordance with this Section 3.03.

Section 3.04. Removal of Personalty. Upon the expiration of the Lease Term, and if Lessee is not then in breach hereof that is not remedied by Lessee, Lessee may remove from the Property all personal property and trade fixtures belonging to Lessee and may de-identify the Property, which may include removal of signs, décor and materials displaying any marks, designs or logos owned by Franchisor or its Affiliates. Lessee shall repair any damage caused by such removal and shall leave the Property clean and in good and working condition and repair inside and out, subject to normal wear and tear, casualty and condemnation. The Property of Lessee left on the Property on the tenth day following the expiration of the Lease Term shall, at Lessor's option, automatically and immediately become the property of Lessor.

ARTICLE IV

RENTAL AND OTHER MONETARY OBLIGATIONS

Section 4.01. Base Monthly Rental. During the Lease Term, on or before the first day of each calendar month, Lessee shall pay in advance the Base Monthly Rental then in effect. If the Effective Date is a date other than the first day of the month, Lessee shall pay to Lessor on the Effective Date the Base Monthly Rental prorated by multiplying the Base Monthly Rental by a fraction, the numerator of which is the number of days remaining in the month (including the Effective Date) for which Rental is being paid, and the denominator of which is the total number of days in such month.

Section 4.02. Adjustments. During the Lease Term (including any Extension Term), on the first Adjustment Date and on each Adjustment Date thereafter, the Base Annual Rental shall increase by an amount equal to the Rental Adjustment; *provided, however*, that in no event shall Base Annual Rental be reduced as a result of the application of the Rental Adjustment.

Section 4.03. Additional Rental. Lessee shall pay and discharge, as additional rental ("Additional Rental"), all sums of money required to be paid by Lessee under this Lease which are not specifically referred to as Rental. Lessee shall pay and discharge any Additional Rental when the same shall become due, provided that amounts which are billed to Lessor or any third party, but not to Lessee, shall be paid within fifteen (15) days after Lessor's demand for payment thereof or, if later, when the same are due. In no event shall Lessee be required to pay to Lessor any item of Additional Rental that Lessee is obligated to pay and has paid to any third party pursuant to any provision of this Lease.

Section 4.04. Rentals To Be Net to Lessor. The Base Annual Rental payable hereunder shall be net to Lessor, so that this Lease shall yield to Lessor the Rentals specified during the Lease Term, and all expenses and obligations of every kind and nature whatsoever relating to the Property shall be performed and paid by Lessee, including without limitation, common area maintenance charges, if any, related to the Property. Lessee shall perform all of its obligations under this Lease at its sole cost and expense. All Rental and other Monetary Obligations which Lessee is required to pay hereunder shall be the unconditional obligation of

Lessee and shall be payable in full when due and payable, without notice or demand, and without any setoff, abatement, deferment, deduction or counterclaim whatsoever.

Section 4.05. Payments by Tenant; ACH Authorization. Lessee shall pay Base Monthly Rental, any Additional Rental, impound payments (if any), sales tax or real property tax (if any), and any other Monetary Obligations when due and owing by (a) check delivered to the address designated by Lessor; or (b) electronic transfer or wire transfer into an account designated by Landlord or (c) delivery to Lessor of a complete Authorization Agreement – Pre-Arranged Payments in the form of Exhibit C attached hereto and incorporated herein by this reference, together with a voided check for account verification, establishing arrangements whereby payments of the Base Monthly Rental, any Additional Rental, impound payments (if any), sales tax or real property tax (if any), and any other Monetary Obligations are transferred by Automated Clearing House Debit initiated by Lessor from an account established by Lessee at a United States bank or other financial institution to such account as Lessor may designate.

Section 4.06. Late Charges; Default Interest. Any delinquent payment not made within five (5) days of the due date shall, in addition to any other remedy of Lessor, incur a late charge of five percent (5%) (which late charge is intended to compensate Lessor for the cost of handling and processing such delinquent payment and should not be considered interest) and bear interest at the Default Rate, such interest to be computed from and including the date such payment was due through and including the date of the payment; *provided, however*, in no event shall Lessee be obligated to pay a sum of late charge and interest higher than the maximum legal rate then in effect.

Section 4.07. Holdover. If Lessee remains in possession of the Property after the expiration of the term hereof, Lessee, at Lessor's option and within Lessor's sole discretion, may be deemed a tenant on a month-to-month basis and shall continue to pay Rentals and other Monetary Obligations in the amounts herein provided, except that the Base Monthly Rental shall be automatically increased to one hundred fifty percent (150%) of the last Base Monthly Rental payable under this Lease, and Lessee shall comply with all the terms of this Lease; *provided that* nothing herein nor the acceptance of Rental by Lessor shall be deemed a consent to such holding over. Lessee shall defend, indemnify, protect and hold the Indemnified Parties harmless from and against any and all Losses resulting from Lessee's failure to surrender possession upon the expiration of the Lease Term, including, without limitation, any claims made by any succeeding lessee.

Section 4.08. Guaranty. On or before the execution of this Lease, Lessee shall cause Guarantor to execute and deliver to Lessor the Guaranty.

Section 4.09. Percentage Rental. Commencing January 1, 2019, and continuing throughout the Lease Term, commencing on the third (3rd) calendar month after the end of each calendar year during the Lease Term, Lessee shall pay to Lessor an amount equal to six percent (6%) multiplied by the amount by which annual aggregate Sales (as defined below) in the immediately preceding calendar year of the Lease Term exceeds the Applicable Breakpoint (collectively, the "Percentage Rental"). As used herein, "Applicable Breakpoint" means Two Million and 00/100 Dollars (\$2,000,000.00). Lessee shall remit installments of Percentage Rental in twelve (12) equal payments concurrently with Base Monthly Rental, commencing with the March Base Monthly Rental payment following the calendar year for which Percentage Rental is attributable. For the avoidance of doubt, the first calendar year for which Percentage

Rent will be applicable will be 2019 (with such Percentage Rent payable in 2020 pursuant to the above).

As used herein, "Sales" means, in the aggregate, the gross amount of all sales for goods or services, including food, beverages, merchandise, incentive or promotional payments made in, from, or at the Property in connection with the business conducted at the Property, whether for cash or on credit. Sales shall not include the following, and the following shall be excluded or deducted, as applicable, from Sales: (i) the amount of any sales or other tax imposed by any governmental authority directly on sales and all occupational sales taxes and other taxes levied upon, assessed against, based upon, or measured by (A) Lessee's gross receipts, or any part thereof, or (B) the sale or sales price of merchandise and services, or either, that shall be payable by Lessee, whether or not collected by Lessee from its customers as reimbursement or agent of the taxing authority, and whether or not the same shall be commonly known as a sales tax, use tax, retailers' occupational tax, gross receipts tax, or excise tax; said taxes to be excluded from Sales shall be excludable regardless of whether imposed under any existing or future orders, regulations, laws, statutes, or ordinances; (ii) transfers of food, beverages, merchandise or goods between different locations of Lessee; (iii) returns to suppliers, shippers or manufacturers; (iv) any discounts, comps, rebates, cash or credit refunds to customers or returned or bad checks from customers on transactions otherwise included in gross receipts; (v) sales of fixtures, machinery and equipment and bulk sales; (vi) sales of gift and merchandise certificates, (vii) sales at a discount to Lessee's employees and employee meals; (viii) commissions, fees, and service, interest and late payment charges for time payment accounts, charge accounts, and credit cards; (ix) bad debts for retail customers (and not for trade accounts), but in the event of recovery of any portion thereof, such recovery shall be added to Sales in the quarter of recovery to the extent any such amounts have been deducted hereunder; (x) receipts and fees from or with respect to (1) public telephones, stamp machines, ATM machines, wherever located, and (2) food, cigarette and beverage vending machines located in employee areas; (x) insurance proceeds received on account of casualty loss of inventory, (xi) all customer services rendered by Lessee as an accommodation to its customers (e.g., amounts charged for delivery, amounts charged for assembly, amounts charged for alterations, or amounts charged for mailing), and (x) penalties charged to Lessee for returned checks, charge backs on credit card transactions, and counterfeit tender.

Section 4.10. Deposit.

(a) Lessee has paid Lessor upon the delivery of this Lease the sum of \$75,000 (the "Security Deposit") as security for the full and faithful performance by Lessee of each and every term, provision, covenant and condition of this Lease. If Lessee defaults in respect of any of the terms, provisions, covenants and conditions of this Lease, including but not limited to payment of any Monetary Obligation (including Rental) due under this Lease, Lessor may, but shall not be required to, use, apply or retain the whole or any part of the Security Deposit for the payment of any Monetary Obligation (including Rental) in default or for any other sum which Lessor may expend or be required to expend by reason of Lessee's default, including any damages or deficiency in the reletting of the Property, whether such damages or deficiency accrue before or after summary proceedings or other re-entry by Lessor; *provided, however*, that each time Lessor so uses any amount of the Security Deposit, (a) the related delinquent payment shall continue to bear interest at the Default Rate (as described in Section 4.06) until the Security Deposit is replenished as described in this Section 4.10,

(b) the late charge (as described in Section 4.06) shall be increased to fifteen percent (15%), and (c) Lessee shall replenish the Security Deposit, in the manner set forth herein, to a sum equal to the amount of the Security Deposit in the original amount. If Lessee shall fully and faithfully comply with all of the terms, provisions, covenants and conditions of this Lease, the Security Deposit, or any balance thereof, shall be returned to Lessee after the time fixed as the expiration of the Lease Term and after the removal of Lessee and surrender of possession of the Property to Lessor. Whenever and as often as the amount of the Security Deposit held by Lessor shall be diminished by Lessor's application thereof, Lessee shall, within ten (10) days after Lessor's request therefor, deposit additional money with Lessor sufficient to restore the Security Deposit as set forth in this Section 4.10. Lessee shall not be entitled to any interest on the Security Deposit except as provided otherwise pursuant to applicable law. In the absence of evidence satisfactory to Lessor of an assignment of the right to receive the Security Deposit, or the remaining balance thereof, Lessor may return the security to the original Lessee, regardless of one or more assignments of this Lease. In case of a sale or transfer of the fee of the Property, or any cessation of Lessor's interest therein, whether in whole or in part, Lessor may pay over any unapplied part of the Security Deposit to the succeeding owner of the Property and from and after such payment Lessor shall be relieved of all liability with respect thereto. The provisions of the preceding sentence shall apply to every subsequent sale or transfer of the fee of the Property, and any successor of Lessor may, upon a sale, transfer or other cessation of the interest of such successor in the Property, whether in whole or in part, pay over any unapplied part of the Security Deposit to the successor owner of the Property and shall thereupon be relieved of all liability with respect thereto.

(b) As long as there is no uncured Event of Default by Lessee that has occurred under the terms of this Lease, \$50,000 of the Security Deposit, shall be returned to Lessee, upon Lessee's request, following the fifth anniversary of the Effective Date. For the avoidance of doubt, the remaining \$25,000 of the Security Deposit shall continue to be held by Lessor as the Security Deposit hereunder for the remainder of the Lease Term.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF LESSEE

Section 5.01. The representations and warranties of Lessee contained in this Article V are true and correct as of the date of the execution of this Lease by Lessee as indicated by its signature below, are being made to induce Lessor to enter into this Lease, and Lessor has relied upon such representations and warranties. Lessee represents and warrants to Lessor as follows:

(a) **Organization, Authority and Status of Lessee.** Lessee has been duly organized or formed, is validly existing and in good standing under the laws of its state of formation and is qualified as a foreign corporation to do business in any jurisdiction where such qualification is required. All necessary company action has been taken to authorize the execution, delivery and performance by Lessee of this Lease and of the other documents, instruments and agreements provided for herein, including without

limitation, the Transaction Documents. Lessee is not, and if Lessee is a "disregarded entity," the owner of such disregarded entity is not, a "nonresident alien," "foreign corporation," "foreign partnership," "foreign trust," "foreign estate," or any other "person" that is not a "United States Person" as those terms are defined in the Code and the regulations promulgated thereunder. The Person who has executed this Lease on behalf of Lessee is duly authorized to do so.

(b) **Enforceability.** This Lease constitutes the legal, valid and binding obligation of Lessee, enforceable against Lessee in accordance with its terms.

(c) **Property Condition.** Lessee has physically inspected the Property, and has found all of the same satisfactory in all respects for all of Lessee's purposes.

(d) **Litigation.** There are no suits, actions, proceedings or investigations pending, or to the best of its knowledge, threatened against or involving any Lessee Entity or the Property before any arbitrator or Governmental Authority which might reasonably result in any Material Adverse Effect.

(e) **Absence of Breaches or Defaults.** Lessee is not in default under any document, instrument or agreement to which Lessee is a party or by which Lessee, the Property or any of Lessee's property is subject or bound, which has had, or could reasonably be expected to result in, a Material Adverse Effect. The authorization, execution, delivery and performance of this Lease and the documents, instruments and agreements provided for herein will not result in any breach of or default under any document, instrument or agreement to which Lessee is a party or by which Lessee, the Property or any of Lessee's property is subject or bound.

(f) **Licenses and Permits.** Lessee has obtained all required licenses and permits, both governmental and private, to use and operate the Property as a Permitted Facility.

(g) **Compliance With OFAC Laws.** None of the Lessee Entities, and no individual or entity owning directly or indirectly any interest in any of the Lessee Entities, is an individual or entity whose property or interests are subject to being blocked under any of the OFAC Laws or is otherwise in violation of any of the OFAC Laws; *provided, however,* that the representation contained in this sentence shall not apply to any Person to the extent such Person's interest is in or through a U.S. Publicly Traded Entity.

(h) **Franchise Agreement.** Lessee has entered into a franchise, license and/or area development agreement with Franchisor ("Franchise Agreement") for conduct of the business at the Property. Such Franchise Agreement is valid, binding and in full force and effect, permits Lessee to operate a Permitted Facility on the Property, and has a term which will not expire prior to the Lease Term.

Section 5.02. The representations and warranties of Lessor contained in this Article V are being made to induce Lessee to enter into this Lease, and Lessee has relied, and will continue to rely, upon such representations and warranties. Lessor represents and warrants to Lessor as follows:

(a) **Organization, Authority and Status of Lessor.** Lessor has been duly organized or formed, is validly existing and in good standing under the laws of its state of formation and is qualified as a foreign limited liability company to do business in any jurisdiction where such qualification is required. All necessary company action has been taken to authorize the execution, delivery and performance by Lessee of this Lease and of the other documents, instruments and agreements provided for herein, including without limitation, the Transaction Documents. Lessor is not, and if Lessor is a "disregarded entity," the owner of such disregarded entity is not, a "nonresident alien," "foreign corporation," "foreign partnership," "foreign trust," "foreign estate," or any other "person" that is not a "United States Person" as those terms are defined in the Code and the regulations promulgated thereunder. The Person who has executed this Lease on behalf of Lessor is duly authorized to do so.

(b) **Enforceability.** This Lease constitutes the legal, valid and binding obligation of Lessor, enforceable against Lessor in accordance with its terms.

(c) **Title.** As the Effective Date, Lessor has good and valid fee simple marketable title to the Property subject to no liens, encumbrances, covenants, restrictions, easements or other matters that would restrict, limit or otherwise affect the use and operation of a Permitted Facility on the Property.

(d) **No Conflicts.** The authorization, execution, delivery and performance of this Lease and the documents, instruments and agreements provided for herein will not result in any material breach of or default under any document, instrument or agreement to which Lessor is a party or by which Lessor, or any of Lessor's property is subject or bound.

ARTICLE VI

TAXES AND ASSESSMENTS; UTILITIES; INSURANCE

Section 6.01. Taxes.

(a) **Payment.** Subject to the provisions of Section 6.01(b) below, Lessee shall pay, prior to the earlier of delinquency or the accrual of interest on the unpaid balance, all taxes and assessments of every type or nature assessed against or imposed upon the Property, Lessee or Lessor during the Lease Term related to or arising out of this Lease and the activities of the parties hereunder, including without limitation, (i) all taxes or assessments upon the Property or any part thereof and upon any personal property, trade fixtures and improvements located on the Property, whether belonging to Lessor or Lessee, or any tax or charge levied in lieu of such taxes and assessments; (ii) all taxes, charges, license fees and or similar fees imposed by reason of the use of the Property by Lessee; (iii) all excise, franchise, transaction, privilege, license, sales, use and other taxes upon the Rental or other Monetary Obligations hereunder, the leasehold estate of either party or the activities of either party pursuant to this Lease; and (iv) all franchise, privilege or similar taxes of Lessor calculated on the value of the Property or on the amount of capital apportioned to the Property. All taxes and assessment upon the Property or any part thereof or improvements thereon shall be

prorated on a per diem basis for any partial tax years falling within the Lease Term. Notwithstanding anything in clauses (i) through (iv) to the contrary, Lessee shall not be obligated to pay or reimburse Lessor for any taxes based on the net income of Lessor.

(b) **Right to Contest.** Within thirty (30) days after each tax and assessment payment is required by this Section 6.01 to be paid, Lessee shall provide Lessor with evidence reasonably satisfactory to Lessor that taxes and assessments have been timely paid by Lessee. In the event Lessor receives a tax bill, Lessor shall use commercially reasonable efforts to forward said bill to Lessee within fifteen (15) days of Lessor's receipt thereof. Lessee may, at its own expense, contest or cause to be contested (in the case of any item involving more than \$10,000, after prior written notice to Lessor, which shall be given within fifteen (15) days of Lessee's determination to contest any matter as permitted herein), by appropriate legal proceedings conducted in good faith and with due diligence, any above-described item or lien with respect thereto, including, without limitation, the amount or validity or application, in whole or in part, of any such item, provided that (i) neither the Property nor any interest therein would be in any danger of being sold, forfeited or lost during the pendency of such proceedings; (ii) no Event of Default has occurred and is continuing; (iii) if and to the extent required by the applicable taxing authority, Lessee posts a bond or takes other steps acceptable to such taxing authority that removes such lien or stays enforcement thereof; (iv) Lessee shall promptly provide Lessor with copies of all notices received or delivered by Lessee and filings made by Lessee in connection with such proceeding; and (v) upon termination of such proceedings, it shall be the obligation of Lessee to pay the amount of any such tax and assessment or part thereof as finally determined in such proceedings, the payment of which may have been deferred during the prosecution of such proceedings, together with any costs, fees (including attorneys' fees and disbursements), interest, penalties or other liabilities in connection therewith. Lessor shall at the request of Lessee, execute or join in the execution of any instruments or documents necessary in connection with such contest or proceedings, but Lessor shall incur no cost or obligation thereby.

Section 6.02. Utilities. Lessee shall contract, in its own name, for and pay when due all charges for the connection and use of water, gas, electricity, telephone, garbage collection, sewer use and other utility services supplied to the Property during the Lease Term. Under no circumstances shall Lessor be responsible for any interruption of any utility service.

Section 6.03. Insurance.

(a) **Coverage.** Throughout the Lease Term, Lessee shall maintain, with respect to the Property, at its sole expense, the following types and amounts of insurance:

(i) Insurance against loss or damage to real property and personal property under an "all risk" or "special form" insurance policy, which shall include coverage against all risks of direct physical loss, including but not limited to loss by fire, lightning, wind, terrorism, and other risks normally included in the standard ISO special form (and shall also include National Flood and Excess Flood insurance if the Property is located within a 100-year floodplain (FEMA Zones A and V) and earthquake insurance if the Property is located within a

moderate to high earthquake hazard zone as determined by an approved insurance company set forth in Section 6.03(b)(x) below). Such policy shall also include soft costs, a joint loss agreement, coverage for ordinance or law covering the loss of value of the undamaged portion of the Property, costs to demolish and the increased costs of construction if any of the improvements located on, or the use of, the Property shall at any time constitute legal non-conforming structures or uses. Ordinance or law limits shall be in an amount equal to the full replacement cost for the loss of value of the undamaged portion of the Property and no less than 25% of the replacement cost for costs to demolish and the increased cost of construction, or in an amount otherwise specified by Lessor. Such insurance shall be in amounts not less than 100% of the full insurable replacement cost values (without deduction for depreciation), with an agreed amount endorsement or without any coinsurance provision, and with sublimits reasonably satisfactory to Lessor, as determined from time to time at Lessor's request but not more frequently than once in any 12-month period.

(ii) Commercial general liability insurance, including products and completed operation liability, covering Lessor and Lessee against bodily injury liability, property damage liability and personal and advertising injury, liquor liability coverage, including without limitation any liability arising out of the ownership, maintenance, repair, condition or operation of the Property or parking lots controlled by Lessee. Such insurance policy or policies shall contain a broad form contractual liability endorsement under which the insurer agrees to insure Lessee's obligations under Article X hereof to the extent insurable, and a "severability of interest" clause or endorsement which precludes the insurer from denying the claim of Lessee or Lessor because of the negligence or other acts of the other, shall be in amounts of not less than Two Million and 00/100 Dollars (\$2,000,000.00) per occurrence for bodily injury and property damage, and Two Million and 00/100 Dollars (\$2,000,000.00) general aggregate per location, or such higher limits as Lessor may reasonably require as a result of changes in Lessee's operations or increases in hazards. Such limits of insurance can be acquired through Commercial General liability and Umbrella liability policies.

(iii) Workers' compensation and Employers Liability insurance with statutorily mandated limits covering all persons employed by Lessee on the Property in connection with any work done on or about the Property.

(iv) Rental value insurance, equal to 100% of the Base Annual Rental (as may adjusted hereunder) for a period of not less than twelve (12) months, which insurance shall be carved out of Lessee's business interruption coverage for a separate rental value insurance payable to Lessor, or if rental value insurance is included in Lessee's business interruption coverage, the insurer shall provide priority payment to any rent obligations, and such obligations shall be paid directly to Lessor. Such insurance is to follow form of the real property "all risk" or "special form" coverage and is not to contain a co-insurance clause. Such insurance is to have a minimum of twelve (12) months of extended period of indemnity.

(v) Automobile liability insurance, including owned, non-owned and hired car liability insurance for combined limits of liability of Five Million and 00/100 Dollars (\$5,000,000.00) per occurrence. The limits of liability can be provided in a combination of an automobile liability policy and an umbrella liability policy.

(vi) Comprehensive Boiler and Machinery Insurance against loss or damage from explosion of any steam or pressure boilers or similar apparatus, if any, located in or about the Property and in an amount equal to the lesser of 25% of the 100% replacement cost of the Property or Five Million and 00/100 Dollars (\$5,000,000.00).

(vii) Such additional and/or other insurance and in such amounts as at the time is customarily carried by prudent owners or tenants with respect to improvements and personal property similar in character, location and use and occupancy to the Property, provided, however, such additional and/or other insurance requirements will only apply when Lessee has changes in operations or increases in hazards.

(b) **Insurance Provisions.** All insurance policies shall:

(i) provide (A) for a waiver of subrogation by the insurer as to claims against Lessor, its employees and agents; (B) that the insurer shall not deny a claim and that such insurance cannot be unreasonably cancelled, invalidated or suspended on account of the conduct of Lessee, its officers, directors, employees or agents, or anyone acting for Lessee or any subtenant or other occupant of the Property; and (C) that any losses otherwise payable thereunder shall be payable notwithstanding any act or omission of Lessor or Lessee which might, absent such provision, result in a forfeiture of all or a part of such insurance payment;

(ii) be primary and provide that any "other insurance" clause in the insurance policy shall exclude any policies of insurance maintained by Lessor and the insurance policy shall not be brought into contribution with insurance maintained by Lessor;

(iii) contain deductibles not to exceed Fifty Thousand and 00/100 Dollars (\$50,000); provided, that, if during the Lease Term the market standard for deductibles for an agreement of this type increases, then the parties shall cooperate in good faith to negotiate an increase in the minimum deductible required pursuant to this provision;

(iv) contain a standard non-contributory mortgagee clause or endorsement in favor of any Lender designated by Lessor;

(v) provide that the policy of insurance shall not be terminated, cancelled or amended without at least thirty (30) days' prior written notice to Lessor and to any Lender covered by any standard mortgagee clause or endorsement;

(vi) provide that the insurer shall not have the option to restore the Property if Lessor elects to terminate this Lease in accordance with the terms hereof;

(vii) be in amounts sufficient at all times to satisfy any coinsurance requirements thereof;

(viii) except for workers' compensation insurance referred to in Section 6.03(a)(iii) above, name Lessor or Lender requested by Lessor, as an "additional insured" with respect to general liability insurance, as a "named insured" (or "additional insured" if named insured is not available) with respect to real property, and as a "loss payee" with respect to all real property and rental value insurance, as appropriate and as their interests may appear;

(ix) be evidenced by delivery to Lessor and any Lender designated by Lessor of an Acord Form 28 for property, rental value and boiler & machinery coverage (or any other form requested by Lessor) and an Acord Form 25 for commercial general liability, workers' compensation and umbrella coverage (or any other form requested by Lessor); provided that in the event that either such form is no longer available, such evidence of insurance shall be in a form similar to Accord Forms 25 and 28 then standard in the insurance industry; and

(x) be issued by insurance companies licensed to do business in the state where the Property is located and which are rated no less than A-VII by Best's Insurance Guide or are otherwise approved by Lessor.

(c) **Additional Obligations.** It is expressly understood and agreed that (i) if any insurance required hereunder, or any part thereof, shall expire, be withdrawn, become void by breach of any condition thereof by Lessee, or become void or in jeopardy by reason of the failure or impairment of the capital of any insurer, Lessee shall immediately replace the insurance coverages required by this Section 6.03; (ii) the minimum limits of insurance coverage set forth in this Section 6.03 shall not limit the liability of Lessee for its acts or omissions as provided in this Lease; (iii) Lessee shall procure policies for all insurance for periods of not less than one year and shall provide to Lessor and any servicer or Lender of Lessor certificates of insurance evidencing that insurance satisfying the requirements of this Lease is in effect at all times; (iv) Lessee shall pay as they become due all premiums for the insurance required by this Section 6.03; and (v) in the event that Lessee fails to comply with any of the requirements set forth in this Section 6.03, within ten (10) days of the giving of written notice by Lessor to Lessee and Lessee's failure to comply with such requirements prior to the expiration of such 10-day period, (A) Lessor shall be entitled to procure such insurance; and (B) any sums expended by Lessor in procuring such insurance shall be Additional Rental and shall be repaid by Lessee, together with interest thereon at the Default Rate, from the time of payment by Lessor until fully paid by Lessee immediately upon written demand therefor by Lessor.

(d) **Blanket Policies.** Notwithstanding anything to the contrary in this Section 6.03, any insurance which Lessee is required to obtain pursuant to this Section 6.03 may be carried under a "blanket" policy or policies covering other properties or

liabilities of Lessee provided that such "blanket" policy or policies otherwise comply with the provisions of this Section 6.03.

Section 6.04. Tax and Insurance Impound. Following the occurrence of the second monetary Event of Default during the Term and with respect to each Event of Default following such occurrence, in addition to any other remedies, Lessor may require Lessee to pay to Lessor on the first day of each month the amount that Lessor reasonably estimates will be necessary in order to accumulate with Lessor sufficient funds in an impound account (which shall not be deemed a trust fund) (the "Reserve") for Lessor to pay any and all real estate taxes ("Real Estate Taxes") and insurance premiums ("Insurance Premiums") for the Property for the ensuing twelve (12) months, or, if due sooner, Lessee shall pay the required amount immediately upon Lessor's demand therefor. Lessor shall, upon prior written request of Lessee, provide Lessee with evidence reasonably satisfactory to Lessee that payment of the Real Estate Taxes and Insurance Premiums was made in a timely fashion. In the event that the Reserve does not contain sufficient funds to timely pay any Real Estate Taxes or Insurance Premiums, upon Lessor's written notification thereof, Lessee shall, within five (5) Business Days of such notice, provide funds to Lessor in the amount of such deficiency. Lessor shall pay or cause to be paid directly to the applicable taxing authorities and insurance company, as the case may be, any Real Estate Taxes and Insurance Premiums then due and payable for which there are funds in the Reserve; *provided, however*, that in no event shall Lessor be obligated to pay any Real Estate Taxes or Insurance Premiums in excess of the funds held in the Reserve, and Lessee shall remain liable for any and all Real Estate Taxes, including fines, penalties, interest or additional costs imposed by any taxing authority (unless incurred as a result of Lessor's failure to timely pay Real Estate Taxes for which it had funds in the Reserve) and Insurance Premiums. Lessee shall cooperate fully with Lessor in assuring that the Real Estate Taxes and Insurance Premiums are timely paid. Lessor shall deposit all Reserve funds in segregated accounts insured by any federal or state agency and may not commingle such funds with other funds and accounts of Lessor. Interest or other gains from such funds, if any, shall be the sole property of Lessee. Upon an Event of Default, in addition to any other remedies, Lessor may apply all impounded funds in the Reserve against any sums due from Lessee to Lessor. Lessor shall give to Lessee an annual accounting showing all credits and debits to and from such impounded funds received from Lessee.

ARTICLE VII

MAINTENANCE; ALTERATIONS

Section 7.01. Condition of Property; Maintenance. Lessee hereby accepts the Property "AS IS" and "WHERE IS" with no representation or warranty of Lessor as to the condition thereof. Lessee shall, at its sole cost and expense, be responsible for (a) keeping all of the building, structures and improvements erected on the Property in good order and repair, free from actual or constructive waste, including without limitation, the roof and the HVAC and other electrical and mechanical systems; (b) the repair or reconstruction of any building, structures or improvements erected on the Property damaged or destroyed by a Casualty; (c) subject to Section 7.02, making all necessary structural, non-structural, exterior and interior repairs and replacements to any building, structures or improvements erected on the Property; (d) operating, remodeling, updating and modernizing the Property in accordance with those standards adopted from time to time on a system-wide basis for the Permitted Facility; and (e) paying all operating costs of the Property in the ordinary course of business. Lessee waives

any right to require Lessor to maintain, repair or rebuild all or any part of the Property or make repairs at the expense of Lessor pursuant to any Legal Requirements at any time in effect.

Section 7.02. Alterations and Improvements. During the Lease Term, Lessee shall not alter the exterior, structural, plumbing or electrical elements of the Property in any manner without the consent of Lessor, which consent shall not be unreasonably withheld or conditioned; *provided, however*, Lessee may undertake without Lessor's prior written consent (i) alterations to the Property if required by Franchisor in accordance with those standards adopted from time to time on a system wide basis for a Permitted Facility, and (ii) nonstructural alterations for each individual Property costing less than One Hundred Thousand and 00/100 Dollars (\$100,000.00). If Lessor's consent is required hereunder and Lessor consents to the making of any such alterations, the same shall be made by Lessee at Lessee's sole expense by a licensed contractor and according to plans and specifications approved by Lessor and subject to such other conditions as Lessor shall reasonably require. Any work at any time commenced by Lessee on the Property shall be prosecuted diligently to completion, shall be of good workmanship and materials and shall comply fully with all the terms of this Lease and all Legal Requirements. Upon completion of any alterations individually costing One Hundred Thousand and 00/100 Dollars (\$100,000.00) or more, Lessee shall promptly provide Lessor with evidence of full payment to all laborers and materialmen contributing to the alterations. Additionally, upon completion of any alterations, Lessee shall promptly provide Lessor with (a) an architect's certificate certifying the alterations to have been completed in conformity with the plans and specifications (if the alterations are of such a nature as would require the issuance of such a certificate from the architect); (b) a certificate of occupancy (if the alterations are of such a nature as would require the issuance of a certificate of occupancy); and (c) any other documents or information reasonably requested by Lessor. Lessee shall keep the Property free from any liens arising out of any work performed on, or materials furnished to, the Property, provided Lessee shall have the right to contest any such liens in good faith. Lessee shall execute and file or record, as appropriate, a "Notice of Non-Responsibility," or any equivalent notice permitted under applicable law in the state where the Property is located which provides that Lessor is not responsible for the payment of any costs or expenses relating to the additions or alterations. Any addition to or alteration of the Property, excluding trade fixtures, shall be deemed a part of the Property and belong to Lessor, and Lessee shall execute and deliver to Lessor such instruments as Lessor may require to evidence the ownership by Lessor of such addition or alteration.

Section 7.03. Encumbrances. During the Lease Term, Lessor shall have the right to grant easements on, over, under and above the Property without the prior consent of Lessee, provided that such easements will not interfere with Lessee's use of the Property. Lessee shall comply with and perform all obligations of Lessor under all easements, declarations, covenants, restrictions and other items of record now or hereafter encumbering the Property. Without Lessor's prior written consent, Lessee shall not grant any easements on, over, under or above the Property.

ARTICLE VIII

USE OF THE PROPERTY; COMPLIANCE

Section 8.01. Use. During the Lease Term, the Property shall be used solely for the operation of a Permitted Facility. Except during periods when the Property is untenable due

to Casualty or Condemnation or undergoing alterations in accordance with the terms hereof (and provided that Lessee continues to strictly comply with the other terms and conditions of this Lease), Lessee shall at all times during the Lease Term occupy the Property and shall diligently operate its business on the Property.

Section 8.02. Alternative Use. Lessee shall not, by itself or through any assignment, sublease or other type of transfer, convert the Property to an alternative use during the Lease Term without Lessor's prior written consent. In the event that Lessee shall change the use of the Property or the concept or brand operated on the Property, only as may be expressly permitted herein or consented to by Lessor in writing, Lessee shall provide Lessor with written notice of any such change and a copy of the franchise agreement related to such new concept or brand, if any.

Section 8.03. Compliance. Lessee's use and occupation of the Property, and the condition thereof, shall, at Lessee's sole cost and expense, comply fully with all Legal Requirements and all restrictions, covenants and encumbrances of record, and any owner obligations under such Legal Requirements, or restrictions, covenants and encumbrances of record, with respect to the Property, in either event, the failure with which to comply could have a Material Adverse Effect. Without in any way limiting the foregoing provisions, Lessee shall comply with all Legal Requirements relating to anti-terrorism, trade embargos, economic sanctions, Anti-Money Laundering Laws, and the Americans with Disabilities Act of 1990, as such act may be amended from time to time, and all regulations promulgated thereunder, as it affects the Property now or hereafter in effect. Upon Lessor's written request from time to time during the Lease Term (but not more than once in any calendar year), Lessee shall certify in writing to Lessor that Lessee's representations, warranties and obligations under Section 5.01(h) and this Section 8.03 remain true and correct in all material respects and have not been breached. Lessee shall immediately notify Lessor in writing if any of such representations, warranties or covenants are no longer true or have been breached or if Lessee has a reasonable basis to believe that they may no longer be true or have been breached. In the event that Lessor in good faith has reason to believe that the representations of Lessee in Section 5.01(h) or this Section 8.03 have been breached in any material respect. Lessee shall also reimburse Lessor for all Costs incurred by Lessor in evaluating the effect of such an event on the Property and this Lease, in obtaining any necessary license from Governmental Authorities as may be necessary for Lessor to enforce its rights under the Transaction Documents, and in complying with all Legal Requirements applicable to Lessor as the result of the existence of such an event and for any penalties or fines imposed upon Lessor as a result thereof. Lessee will use its best efforts to prevent any act or condition to exist on or about the Property which will materially increase any insurance rate thereon, except when such acts are required in the normal course of its business and Lessee shall pay for such increase. Lessee agrees that it will defend, indemnify and hold harmless the Indemnified Parties from and against any and all Losses caused by, incurred or resulting from Lessee's failure to comply with its obligations under this Section.

Section 8.04. Environmental.

(a) Covenants.

(i) Lessee covenants to Lessor during the Lease Term, subject to the limitations of subsection (ii) below, as follows:

(A) Lessee shall use and operate, and shall ensure that Lessee Parties use and operate the Property in compliance with all Environmental Laws and permits issued pursuant thereto. Lessee shall comply with any lawful investigation or inquiry by a Governmental Authority.

(B) Lessee shall not cause, and shall ensure that Lessee Parties do not cause, any Releases in, on, under or from the Property, except in Permitted Amounts.

(C) Lessee shall not use or store, and shall not allow Lessee Parties to use or store Hazardous Materials in, on or under the Property, except in Permitted Amounts.

(D) Lessee shall keep the Property or cause the Property to be kept free and clear of all liens and other encumbrances imposed pursuant to any Environmental Law resulting from conditions arising from activities first occurring on or after December 11, 2012 and during the Lease Term (the "Environmental Liens").

(E) Lessee shall not act or fail to act or allow any Person over whom it has control to act or fail to act in any way that (1) materially increases a risk to human health or the environment, (2) poses an unreasonable risk of harm to any Person or the environment (whether on or off the Property), (3) has a Material Adverse Effect, (4) is contrary to any material requirement set forth in the insurance policies maintained by Lessee, (5) constitutes a public or private nuisance or constitutes waste, (6) violates any covenant, condition, agreement or easement applicable to the Property, or (7) would result in any reopening or reconsideration of any prior governmental investigation disclosed in the Phase I Environmental Site Assessments prepared in connection with Lessor's acquisition of the Property and for which Lessee received a reliance letter.

(F) In the event that Lessor has a reasonable basis to believe that a Release has occurred and that such Release was initiated on or after December 11, 2012 and during the Lease Term, Lessee shall, at its sole cost and expense, perform any environmental site assessment or other investigation of environmental conditions in connection with the Property as may be reasonably requested by Lessor (including but not limited to sampling, testing and analysis of soil, water, air, building materials and other materials and substances whether solid, liquid or gas), and share with Lessor the reports and other results thereof, and Lessor and the other Indemnified Parties shall be entitled to rely on such reports and other results thereof.

(G) Lessee shall, at its sole cost and expense, fully and expeditiously cooperate in all activities pursuant to this Section 8.04,

including but not limited to providing all relevant non-privileged information and making knowledgeable persons available for interviews.

(ii) Notwithstanding any provision of this Lease to the contrary, an Event of Default shall not be deemed to have occurred as a result of the failure of Lessee to satisfy any one or more of the covenants set forth in subsections (A) through (F) above provided that Lessee shall be in compliance with the requirements of any Governmental Authority with respect to the Remediation of any Release at the Property that was initiated on or after December 11, 2012 and during the Lease Term.

(b) **Notification Requirements.** Lessee shall immediately notify Lessor and Lessor shall immediately notify Lessee, in writing upon obtaining actual knowledge of (i) any Releases or Threatened Releases in, on, under or from the Property other than in Permitted Amounts, or migrating towards the Property; (ii) any non-compliance with any Environmental Laws related in any way to the Property that would reasonably be expected to have a Material Adverse Effect; (iii) any actual or potential Environmental Lien or activity use limitation related to the Property; (iv) any required or proposed Remediation of environmental conditions relating to the Property required by applicable Governmental Authorities; and (v) any written or oral notice or other communication received from any source whatsoever (including but not limited to a Governmental Authority) relating in any way to Hazardous Materials or Remediation thereof at or on the Property, other than in Permitted Amounts, and that could reasonably be expected to result in a Material Adverse Effect, possible liability of any Person relating to the Property pursuant to any Environmental Law, or any actual or threatened administrative or judicial proceedings in connection with anything referred to in this Section. Absent exigent circumstances, Lessor shall consult with Lessee and Lessee shall consult with Lessor prior to notifying any Governmental Authority of any state of facts which may come to its attention with respect to any Hazardous Materials or Release on or from the Property. Lessee shall, upon Lessor's written request, deliver to Lessor a certificate stating that Lessee is and has been in full compliance with all of the environmental representations, warranties and covenants in this Lease.

(c) **Remediation.** Lessee shall, at its sole cost and expense, and without limiting any other provision of this Lease, effectuate any Remediation required by any Governmental Authority of any condition (including, but not limited to, a Release or Threatened Release) in, on, under or from the Property to the extent such condition arises from activities first occurring on or after December 11, 2012 and during the Lease Term and take any other reasonable action deemed necessary by any Governmental Authority for protection of human health or the environment with respect to any such condition. Should Lessee fail to undertake any required Remediation in accordance with the preceding sentence, Lessor, after written notice to Lessee and Lessee's failure to promptly undertake such Remediation, shall be permitted to complete such Remediation, and all Costs incurred in connection therewith shall be paid by Lessee. Any Cost so paid by Lessor, together with interest at the Default Rate, shall be deemed to be Additional Rental hereunder and shall be immediately due from Lessee to Lessor.

(d) **Indemnification.** Lessee shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless each of the Indemnified Parties from and

against any and all Losses, including, but not limited to, all Costs of Remediation that is required by Law or necessary to preserve the value of the Property, arising out of or in any way relating to any Environmental Laws, Hazardous Materials, above or below ground storage tanks, or other environmental matters concerning the Property to the extent such Losses arise from activities first occurring on or after December 11, 2012 and during the Lease Term. Lessor releases Lessee from any liability or obligation with respect to any Losses arising out of or in any way relating to any Environmental Laws, Hazardous Materials, above or below ground storage tanks, or other environmental matters concerning the Property to the extent such Losses arise from activities first occurring before December 11, 2012 and expressly waives any cause of action, whether in contract, tort or by statute, it may otherwise have against Lessee with respect thereto.

(e) **Right of Entry.** Lessor and any other Person designated by Lessor in a writing delivered to Lessee, including but not limited to any receiver, any representative of a Governmental Authority, and any environmental consultant, shall have the right, but not the obligation, to enter upon the Property at all reasonable times (including, without limitation, in connection with the exercise of any remedies set forth in this Lease) to assess any and all aspects of the environmental condition of the Property and its use, including but not limited to conducting any environmental assessment or audit (the scope of which shall be determined in Lessor's sole and absolute discretion) and taking samples of soil, groundwater or other water, air, or building materials, and conducting other invasive testing. Lessee shall cooperate with and provide access to Lessor and any other Person designated by Lessor. Any such assessment or investigation shall be at a time and in a manner least disruptive to Lessee's business on the Property, following no less than twenty-four (24) hours' prior notice, except in the case of an emergency, in which case no such notice shall be required.

(f) **Inspections.** At its sole cost and expense, Lessee shall have the Property inspected as may be required by any Environmental Law for seepage, spillage and other environmental concerns. Lessee shall provide Lessor with written certified results of all such inspections and any environmental inspections performed by any Governmental Authority performed on the Property. All inspections performed on the Property by Lessee or Lessor shall be in compliance with all Environmental Laws.

(g) **AST and UST Compliance.** Lessee shall comply or cause the compliance with all applicable federal, state and local regulations and requirements regarding above and below ground storage tanks installed on the Property on or after December 11, 2012 and during the Lease Term by or on behalf of Lessee, including, without limitation, any of such regulations or requirements which impose (i) technical standards, including, without limitation, performance, leak prevention, leak detection, notification reporting and recordkeeping; (ii) corrective action with respect to confirmed and suspected Releases; and (iii) financial responsibility for the payment of costs of corrective action and compensation to third parties for injury and damage resulting from Releases (collectively "AST and UST Laws"). Lessee shall immediately notify Lessor, in writing, of (A) the installation or removal of any UST or AST on or under the Property, or the Release or Threatened Release from any above or below ground storage tank on, above or under the Property, of any Hazardous Materials which is required to be reported to any Governmental Authority; and (B) any and all enforcement, clean-up, remedial, removal or other governmental or regulatory actions threatened, instituted or

completed pursuant to any of the Environmental Laws affecting the Property. Upon any such Release from any USTs or ASTs installed on or after December 11, 2012 on, above or under the Property of any Hazardous Materials initiated during the term of the Lease, Lessee shall immediately remedy such situation in accordance with all Environmental Laws. Should Lessee fail to remedy or cause the remedy of such situation in accordance with all Environmental Laws, Lessor shall be permitted to take such actions in its sole discretion to remedy such situation and all Costs incurred in connection therewith, together with interest at the Default Rate, will be paid by Lessee.

(h) **Survival.** The obligations of Lessee and the rights and remedies of Lessor under Sections 8.04(c) and 8.04(d) shall survive the termination, expiration and/or release of this Lease.

ARTICLE IX

ADDITIONAL COVENANTS

Section 9.01. Performance at Lessee's Expense. Lessee acknowledges and confirms that Lessor may impose reasonable administrative, processing or servicing fees and recover expenses (not to exceed \$1,750 in the aggregate for any single request concerning this Lease), and collect its reasonable attorneys' fees (which shall be not included in such \$1,750 limitation) in connection with (a) any extension, modification, amendment and termination of this Lease requested by Lessee; (b) any release or substitution of Property; (c) the procurement of consents, waivers and approvals with respect to the Property or any matter related to this Lease; and (d) the review of any assignment or sublease or proposed assignment or sublease or the preparation or review of any subordination or non-disturbance agreement requested by Lessee.

Section 9.02. Inspection. Lessor and its authorized representatives shall have the right, at all reasonable times and upon giving reasonable prior notice (except in the event of an emergency, in which case no prior notice shall be required), to enter the Property or any part thereof and inspect the same. Lessee hereby waives any claim for damages for any injury or inconvenience to or interference with Lessee's business, any loss of occupancy or quiet enjoyment of the Property and any other loss occasioned by such entry, but, subject to Section 10.01, excluding damages arising as a result of the negligence or intentional misconduct of Lessor, provided any such investigation shall be at a time and in a manner least disruptive to Lessee's business on the Property.

Section 9.03. Financial Information.

(a) **Financial Statements.** Upon written request by Lessor, Lessee shall deliver to Lessor quarterly or annual financial statements showing sales statements, profits and losses, assets and liabilities pertaining to the business at the Property with the basis for any allocation of overhead or other charges being clearly set forth. All such financial statements shall be prepared in accordance with GAAP, and shall be certified to be true and accurate by an officer or director of Lessee, subject, in the case of quarterly statements, to year-end adjustments. Lessee understands that Lessor will rely upon such financial statements and Lessee represents that such reliance is reasonable. Within thirty (30) days after the end of each fiscal year of Lessee, and upon prior written

request by Lessor, Lessee shall deliver such compliance certificate to Lessor as Lessor may reasonably require in order to establish that Lessee is in compliance with all of its obligations, duties and covenants under this Lease.

(b) **Other Information.** Notwithstanding any provision contained herein, upon request at any time, Lessee will provide to Lessor any and all financial information and/or financial statements (and in the form or forms) (i) requested by Lessor in connection with Lessor's filings with or disclosures to any Governmental Authority, including, without limitation, the financial statements required in connection with Securities and Exchange Commission filings by Lessor or its Affiliates; and (ii) as reasonably requested by Lessor; provided Lessee shall not be required to generate financial information not then being prepared by Lessee.

(c) **Confidentiality.** Except as set forth in Section 16.05 of this Lease and in connection with a Securitization, Lessor shall keep all financial information provided by Lessee, including pursuant to Section 9.03 hereof, confidential, provided, in the case of a Securitization, only information required for customary Securitization disclosure documents may be disclosed.

Section 9.04. OFAC Laws. Upon receipt of notice or upon actual knowledge thereof, Lessee shall immediately notify Lessor in writing if any Person owning (directly or indirectly) any interest in any of the Lessee Entities, or any director, officer, shareholder, member, manager or partner of any of such holders is a Person whose property or interests are subject to being blocked under any of the OFAC Laws, or is otherwise in violation of any of the OFAC Laws, or is under investigation by any Governmental Authority for, or has been charged with, or convicted of, drug trafficking, terrorist-related activities or any violation of the Anti-Money Laundering Laws, has been assessed civil penalties under these or related laws, or has had funds seized or forfeited in an action under these or related laws; *provided, however*, that the covenant in this Section 9.04 shall not apply to any Person to the extent such Person's interest is in or through a U.S. Publicly Traded Entity.

Section 9.05. Estoppel Certificate.

(a) **By Lessee.** At any time, and from time to time, Lessee shall, promptly and in no event later than ten (10) days after a request from Lessor or any Lender or mortgagee of Lessor, execute, acknowledge and deliver to Lessor or such Lender or mortgagee, as the case may be, a certificate in the form supplied by Lessor, certifying: (a) that Lessee has accepted the Property; (b) that this Lease is in full force and effect and has not been modified (or if modified, setting forth all modifications), or, if this Lease is not in full force and effect, the certificate shall so specify the reasons therefor; (c) the commencement and expiration dates of the Lease Term; (d) the date to which the Rentals have been paid under this Lease and the amount thereof then payable; (e) whether there are then any existing defaults by Lessor in the performance of its obligations under this Lease, and, if there are any such defaults, specifying the nature and extent thereof; (f) that no notice has been received by Lessee of any default under this Lease which has not been cured, except as to defaults specified in the certificate; (g) the capacity of the Person executing such certificate, and that such Person is duly authorized to execute the same on behalf of Lessee; (h) that neither Lessor nor any Lender or mortgagee has actual involvement in the management or control of decision

making related to the operational aspects or the day-to-day operation of the Property, including any handling or disposal of Hazardous Materials; and (i) any other information reasonably requested by Lessor or any Lender or mortgagee, as the case may be. If Lessee shall fail or refuse to sign a certificate in accordance with the provisions of this Section within ten (10) days following a request by Lessor, Lessee irrevocably constitutes and appoints Lessor as its attorney-in-fact to execute and deliver the certificate to any such third party, it being stipulated that such power of attorney is coupled with an interest and is irrevocable and binding.

(b) **By Lessor.** At any time, and from time to time, Lessor shall, promptly and in no event later than ten (10) days after a request from Lessee or any lender or mortgagee of Lessee, execute, acknowledge and deliver to Lessee or such lender or mortgagee, as the case may be, a certificate in the form supplied by Lessee, certifying: (a) that this Lease is in full force and effect and has not been modified (or if modified, setting forth all modifications), or, if this Lease is not in full force and effect, the certificate shall so specify the reasons therefor; (b) the commencement and expiration dates of the Lease Term; (c) the date to which the Rentals have been paid under this Lease and the amount thereof then payable; (d) whether there are then any existing defaults by Lessee in the performance of its obligations under this Lease, and, if there are any such defaults, specifying the nature and extent thereof; (e) that no notice has been received by Lessor of any default under this Lease which has not been cured, except as to defaults specified in the certificate; (f) the capacity of the Person executing such certificate, and that such Person is duly authorized to execute the same on behalf of Lessor; and (g) any other information reasonably requested by Lessee or any lender or mortgagee, as the case may be. If Lessor shall fail or refuse to sign a certificate in accordance with the provisions of this Section within ten (10) days following a request by Lessee, Lessor irrevocably constitutes and appoints Lessee as its attorney-in-fact to execute and deliver the certificate to any such third party, it being stipulated that such power of attorney is coupled with an interest and is irrevocable and binding.

ARTICLE X

RELEASE AND INDEMNIFICATION

Section 10.01. Release and Indemnification. Lessee agrees to use and occupy the Property at its own risk and hereby releases Lessor and Lessor's agents and employees from all claims for any damage or injury to the full extent permitted by law, except to the extent caused by the gross negligence or willful misconduct of Lessor or its agents or employees or any of them. Lessee agrees that Lessor shall not be responsible or liable to Lessee or Lessee's employees, agents, customers, licensees or invitees for bodily injury, personal injury or property damage occasioned by the acts or omissions of any other lessee or any other Person, except to the extent caused by the gross negligence or willful misconduct of Lessor or its agents or employees or any of them. Lessee agrees that any employee or agent to whom the Property or any part thereof shall be entrusted by or on behalf of Lessee shall be acting as Lessee's agent with respect to the Property or any part thereof, and neither Lessor nor Lessor's agents, employees or contractors shall be liable for any loss of or damage to the Property or any part thereof, except to the extent caused by the gross negligence or willful misconduct of Lessor or its agents or employees or any of them. Lessee shall indemnify, protect, defend and hold harmless each of the Indemnified Parties from and against any and all Losses (excluding

Losses suffered by an Indemnified Party arising out of the gross negligence or willful misconduct of such Indemnified Party; *provided, however*, that the term "gross negligence" shall not include gross negligence imputed as a matter of law to any of the Indemnified Parties solely by reason of Lessor's interest in the Property or Lessor's failure to act in respect of matters which are or were the obligation of Lessee under this Lease) caused by, incurred or resulting from Lessee's operations or by Lessee's use and occupancy of the Property, whether relating to its original design or construction, alteration, maintenance, use by Lessee or any Person thereon, supervision or otherwise, or from any breach of, default under, or failure to perform, any term or provision of this Lease by Lessee, its officers, employees, agents or other Persons. It is expressly understood and agreed that Lessee's obligations under this Section shall survive the expiration or earlier termination of this Lease for any reason whatsoever.

ARTICLE XI

CONDEMNATION AND CASUALTY

Section 11.01. Notification. Upon becoming aware, Lessee shall promptly give Lessor written notice of (a) any Condemnation of the Property, (b) the commencement of any proceedings or negotiations which might result in a Condemnation of the Property, and (c) any Casualty to the Property or any part thereof. Such notice shall provide a general description of the nature and extent of such Condemnation, proceedings, negotiations or Casualty, and shall include copies of any documents or notices received in connection therewith. Thereafter, Lessee shall promptly send Lessor copies of all notices, correspondence and pleadings relating to any such Condemnation, proceedings, negotiations or Casualty.

Section 11.02. Total Condemnation. In the event of a Condemnation of all or substantially all of the Property, including a Condemnation (other than a Temporary Taking) of such a substantial part of the Property resulting in the portion of the Property remaining after such Condemnation being unsuitable for use as a Permitted Facility, as determined by Lessee in the exercise of good faith business judgment (and Lessee provides to Lessor an officer's certificate executed by an officer of Lessee certifying to the same) (each such event, a "Total Condemnation"), then, in such event:

(a) **Termination of Lease.** On the date of the Total Condemnation, all obligations of either party hereunder shall cease; *provided, however*, that Lessee's obligations to the Indemnified Parties under any indemnification provisions of this Lease and Lessee's obligation to pay Rental and all other Monetary Obligations (whether payable to Lessor or a third party) accruing under this Lease prior to the date of termination shall survive such termination. If the date of such Total Condemnation is other than the first day of a month, the Base Monthly Rental for the month in which such Total Condemnation occurs shall be apportioned based on the date of the Total Condemnation.

(b) **Net Award.** Lessor shall be entitled to receive the entire Net Award in connection with a Total Condemnation without deduction for any estate vested in Lessee by this Lease, and Lessee hereby expressly assigns to Lessor all of its right, title and interest in and to every such Net Award and agrees that Lessee shall not be entitled to any Net Award or other payment for the value of Lessee's leasehold interest in this

Lease, provided that Lessee shall be entitled to any separate award for Lessee's property not attributed to the value of Lessee's leasehold interest in the Property.

Section 11.03. Partial Condemnation or Casualty. In the event of a Condemnation which is not a Total Condemnation (each such event, a "Partial Condemnation"), or in the event of a Casualty:

(a) **Net Awards.** All Net Awards shall be paid to Lessor, provided that Lessee shall be entitled to any separate award for Lessee's property not attribute to the value of Lessee's leasehold interest in the Property.

(b) **Lessor Election To Continue or Terminate Lease.** Lessor shall have the option, (i) subject to the right of Lessee to elect otherwise as set forth in subsection (d) below, to terminate this Lease by notifying Lessee in writing within thirty (30) days after Lessee gives Lessor notice (A) of such Partial Condemnation or Casualty, or (B) that title has vested in the condemning authority; or (ii) subject to the right of Lessee to elect otherwise as set forth in subsection (e) below, to continue this Lease in effect, which election shall be evidenced by either a notice from Lessor to Lessee, or Lessor's failure to notify Lessee in writing that Lessor has elected to terminate this Lease within such thirty (30)-day period. Lessee shall have a period of sixty (60) days after receipt of Lessor's notice to terminate referenced above during which to elect, despite such Lessor notice of termination, to continue this Lease on the terms herein provided.

(c) **Continuance of Lease.** If Lessor elects not to terminate this Lease, or if Lessor elects to terminate this Lease but Lessee elects to continue this Lease, then this Lease shall continue in full force and effect upon the following terms:

(i) All Rental and other Monetary Obligations due under this Lease shall continue unabated.

(ii) Subject to the terms and conditions of the Mortgages, Lessee shall promptly commence and diligently prosecute restoration of the Property to the same condition, as nearly as practicable, as prior to such Partial Condemnation or Casualty as approved by Lessor. Subject to the terms and provisions of the Mortgages and upon the written request of Lessee (accompanied by evidence reasonably satisfactory to Lessor that such amount has been paid or is due and payable and is properly part of such costs, and that Lessee has complied with the terms of Section 7.02 in connection with the restoration), Lessor shall promptly make available in installments, subject to reasonable conditions for disbursement imposed by Lessor, an amount up to but not exceeding the amount of any Net Award received by Lessor with respect to such Partial Condemnation or Casualty. Prior to the disbursement of any portion of the Net Award with respect to a Casualty, Lessee shall provide evidence reasonably satisfactory to Lessor of the payment of restoration expenses by Lessee up to the amount of the insurance deductible applicable to such Casualty. Lessor shall be entitled to keep any portion of the Net Award which may be in excess of the cost of restoration, and Lessee shall bear all additional Costs of such restoration in excess of the Net Award.

(d) **No Continuance of Lease.** If Lessor elects to terminate this Lease pursuant to Subsection (b) above and if Lessee does not elect to continue this Lease or shall fail during such sixty (60) day period to notify Lessor of Lessee's intent to continue this Lease, then this Lease shall terminate as of the last day of the month during which such sixty (60) day period expired. Lessee shall vacate and surrender the Property by such termination date, in accordance with the provisions of this Lease, and on the termination date, all obligations of either party hereunder shall cease; *provided, however,* Lessee's obligations to the Indemnified Parties under any indemnification provisions of this Lease and Lessee's obligations to pay Rental and all other Monetary Obligations (whether payable to Lessor or a third party) accruing under this Lease prior to the date of termination shall survive such termination. In such event, Lessor may retain all Net Awards related to the Partial Condemnation or Casualty, and Lessee shall immediately pay Lessor an amount equal to the insurance deductible applicable to any Casualty.

(e) **Right to Termination.** Notwithstanding any other provision to the contrary contained in this Article XI, in the event that, as a result of a Casualty or Partial Condemnation, Lessee shall reasonably estimate in the exercise of good faith business judgment that the applicable Property cannot be used for the same purpose and substantially with the same utility as before such Casualty or Partial Condemnation (and Lessee provides to Lessor an officer's certificate executed by an officer of Lessee certifying to the same), then, subject to the terms and conditions set forth in this subsection (e), Lessee shall have the right, exercisable by written notice given to Lessor no later than thirty (30) days following such Casualty or Partial Condemnation, to terminate this Lease. If Lessee elects to terminate, this Lease shall terminate as of the last day of the month during which such thirty (30) day period expired. Lessee shall vacate and surrender the Property by such termination date, in accordance with the provisions of this Lease, and all obligations of either party hereunder shall cease as of the date of termination; *provided, however,* Lessee's obligations to the Indemnified Parties under any indemnification provisions of this Lease and Lessee's obligations to pay Rental and all other Monetary Obligations (whether payable to Lessor or a third party) accruing under this Lease prior to the date of termination shall survive such termination. In such event, Lessor may retain all Net Awards related to the Casualty, and Lessee shall immediately pay Lessor an amount equal to the insurance deductible applicable to any Casualty.

Section 11.04. Temporary Taking. In the event of a Condemnation of all or any part of the Property for a temporary use (a "Temporary Taking"), this Lease shall remain in full force and effect without any reduction of Base Annual Rental, Additional Rental or any other Monetary Obligation payable hereunder. Except as provided below and subject to the terms and conditions of the Mortgages, Lessee shall be entitled to the entire Net Award for a Temporary Taking, unless the period of occupation and use by the condemning authorities shall extend beyond the date of expiration of this Lease, in which event the Net Award made for such Temporary Taking shall be apportioned between Lessor and Lessee as of the date of such expiration. At the termination of any such Temporary Taking, Lessee will, at its own cost and expense and pursuant to the provisions of Section 7.02, promptly commence and complete restoration of the Property.

Section 11.05. Adjustment of Losses. Any loss under any property damage insurance required to be maintained by Lessee shall be adjusted by Lessor and Lessee. Subject to the terms and provisions of the Mortgages, any Net Award relating to a Total Condemnation or a Partial Condemnation shall be adjusted by Lessor or, at Lessor's election, Lessee. Notwithstanding the foregoing or any other provisions of this Section 11.05 to the contrary, but subject to the terms and provisions of the Mortgages, if at the time of any Condemnation or any Casualty or at any time thereafter an Event of Default shall have occurred and be continuing, Lessor is hereby authorized and empowered but shall not be obligated, in the name and on behalf of Lessee and otherwise, to file and prosecute Lessee's claim, if any, for a Net Award on account of such Condemnation or such Casualty and to collect such Net Award and apply the same to the curing of such Event of Default and any other then existing Event of Default under this Lease and/or to the payment of any amounts owed by Lessee to Lessor under this Lease, in such order, priority and proportions as Lessor in its discretion shall deem proper.

Section 11.06. Lessee Obligation in Event of Casualty. During all periods of time following a Casualty, Lessee shall take reasonable steps to ensure that the Property is secure and does not pose any risk of harm to any adjoining property and Persons (including owners or occupants of such adjoining property).

Section 11.07. Lessee Awards and Payments. Notwithstanding any provision contained in this Article XI, Lessee shall be entitled to claim and receive any award or payment from the condemning authority expressly granted for the taking of any personal property and trade fixtures owned by Lessee, any insurance proceeds with respect to any personal property and trade fixtures owned by Lessee, the interruption of its business and moving expenses (subject, however, to the provisions of Section 6.03(a)(iv) above), but only if such claim or award does not adversely affect or interfere with the prosecution of Lessor's claim for the Condemnation or Casualty, or otherwise reduce the amount recoverable by Lessor for the Condemnation or Casualty.

ARTICLE XII

DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES AND MEASURE OF DAMAGES

Section 12.01. Event of Default. Each of the following shall be an event of default by Lessee under this Lease (each, an "Event of Default"):

- (a) if any representation or warranty of Lessee set forth in this Lease is false in any material respect when made;
- (b) if any Rental or other Monetary Obligation due under this Lease is not paid when due and such failure continues for a period of five (5) days after Lessor notifies Lessee of such failure; provided, however Lessor shall only be obligated to provide any such notice and Lessee shall have such five (5) day cure period only once during any twelve (12) month period;

(c) if Lessee fails to pay, prior to delinquency, any taxes, assessments or other charges the failure of which to pay will result in the imposition of a lien against the Property, unless Lessee is escrowing for taxes pursuant to Section 6.04 hereof;

(d) if there is an Insolvency Event affecting Lessee or any Guarantor and, in the case of an Insolvency Event not commenced by Lessee or such Guarantor, such Insolvency Event is not dismissed within ninety (90) days after the commencement thereof;

(e) if Lessee vacates or abandons the Property;

(f) if Lessee fails to observe or perform any of the other covenants, conditions or obligations of Lessee in this Lease; *provided, however*, if any such failure does not involve the payment of any Monetary Obligation does not place the Property or any rights or property of Lessor in immediate jeopardy, and is within the reasonable power of Lessee to promptly cure, all as determined by Lessor in its reasonable discretion, then such failure shall not constitute an Event of Default hereunder, unless otherwise expressly provided herein, unless and until Lessor shall have given Lessee notice thereof and a period of thirty (30) days shall have elapsed, during which period Lessee may correct or cure such failure, upon failure of which an Event of Default shall be deemed to have occurred hereunder without further notice or demand of any kind being required. If such failure cannot reasonably be cured within such thirty (30)-day period, as determined by Lessor in its reasonable discretion, and Lessee is diligently pursuing a cure of such failure, then Lessee shall have a reasonable period to cure such failure beyond such thirty (30)-day period, which shall in no event exceed ninety (90) days after receiving notice of such failure from Lessor. If Lessee shall fail to correct or cure such failure within such ninety (90)-day period, an Event of Default shall be deemed to have occurred hereunder without further notice or demand of any kind being required;

(g) if a final, nonappealable judgment not covered by insurance is rendered by a court against Lessee which has a Material Adverse Effect, or which does not have a Material Adverse Effect but which is in the amount of One Hundred Thousand and 00/100 Dollars (\$100,000.00) or more, and in either event is not discharged or provision made for such discharge within ninety (90) days from the date of entry thereof;

(h) if Lessee shall be liquidated or dissolved or shall begin proceedings towards its liquidation or dissolution;

(i) if the estate or interest of Lessee in the Property shall be levied upon or attached in any proceeding and such estate or interest is about to be sold or transferred or such process shall not be vacated or discharged within ninety (90) days after it is made;

(j) if there is a breach or default under the Franchise Agreement for which there has been issued a written notice of default or written notice of termination under the terms of the Franchise Agreement, and to the extent permitted, such default has not been cured or corrected within the time period permitted under the Franchise Agreement, and the Franchise Agreement has been terminated, or if such Franchise Agreement terminates or expires prior to the expiration of the Lease and a substitute

agreement for the terminated or expired Franchise Agreement is not entered into prior to such expiration or termination, which substitute agreement shall be in form and substance reasonably satisfactory to Lessor; or

(k) if there is an "Event of Default" or other breach or default by Lessee or Guarantor under any of the other Transaction Documents, after the passage of all applicable notice and cure or grace periods.

Section 12.02. Remedies. Upon the occurrence of an Event of Default, with or without notice or demand, except as otherwise expressly provided herein or such other notice as may be required by statute and cannot be waived by Lessee, Lessor shall be entitled to exercise, at its option, concurrently, successively, or in any combination, all remedies available at law or in equity, including, without limitation, any one or more of the following:

(a) to terminate this Lease, whereupon Lessee's right to possession of the Property shall cease and this Lease, except as to Lessee's liability, shall be terminated;

(b) to the extent not prohibited by applicable law, to (i) re-enter and take possession of the Property (or any part thereof), any or all personal property or fixtures of Lessee upon the Property and, to the extent permissible, all Franchise Agreements, permits and other rights or privileges of Lessee pertaining to the use and operation of the Property, and (ii) expel Lessee and those claiming under or through Lessee, without being deemed guilty in any manner of trespass or becoming liable for any loss or damage resulting therefrom, without resort to legal or judicial process, procedure or action. No notice from Lessor hereunder or under a forcible entry and detainer statute or similar law shall constitute an election by Lessor to terminate this Lease unless such notice specifically so states. If Lessee shall, after default, voluntarily give up possession of the Property to Lessor, deliver to Lessor or its agents the keys to the Property, or both, such actions shall be deemed to be in compliance with Lessor's rights and the acceptance thereof by Lessor or its agents shall not be deemed to constitute a termination of the Lease. Lessor reserves the right following any re-entry and/or reletting to exercise its right to terminate this Lease by giving Lessee written notice thereof, in which event this Lease will terminate;

(c) to bring an action against Lessee for any damages sustained by Lessor or any equitable relief available to Lessor and to the extent not prohibited by applicable law, to remove all or any portion of the personal property or trade fixtures from the Property which Lessee owns or in which it has an interest and cause the same to be stored in a public warehouse or elsewhere at Lessee's sole expense, without becoming liable for any loss or damage resulting therefrom and without resorting to legal or judicial process, procedure or action;

(d) to relet the Property or any part thereof for such term or terms (including a term which extends beyond the original Lease Term), at such rentals and upon such other terms as Lessor, in its sole discretion, may determine, with all proceeds received from such reletting being applied to the Rental and other Monetary Obligations due from Lessee in such order as Lessor may, in its sole discretion, determine, which other Monetary Obligations include, without limitation, all repossession costs, brokerage commissions, attorneys' fees and expenses, alteration, remodeling and repair costs and

expenses of preparing for such reletting. Except to the extent required by applicable Law, Lessor shall have no obligation to relet the Property or any part thereof and shall in no event be liable for refusal or failure to relet the Property or any part thereof, or, in the event of any such reletting, for refusal or failure to collect any rent due upon such reletting, and no such refusal or failure shall operate to relieve Lessee of any liability under this Lease or otherwise to affect any such liability. Lessor reserves the right following any re-entry and/or reletting to exercise its right to terminate this Lease by giving Lessee written notice thereof, in which event this Lease will terminate as specified in said notice;

(e) to accelerate and recover from Lessee the present value of all Rental and other Monetary Obligations due and owing and scheduled to become due and owing under this Lease both before and after the date of such breach for the entire original scheduled Lease Term;

(f) to recover from Lessee all Costs paid or incurred by Lessor as a result of such breach, regardless of whether or not legal proceedings are actually commenced;

(g) to immediately or at any time thereafter, and with or without notice, at Lessor's sole option but without any obligation to do so, correct such breach or default and charge Lessee all Costs incurred by Lessor therein. Any sum or sums so paid by Lessor, together with interest at the Default Rate, shall be deemed to be Additional Rental hereunder and shall be immediately due from Lessee to Lessor. Any such acts by Lessor in correcting Lessee's breaches or defaults hereunder shall not be deemed to cure said breaches or defaults or constitute any waiver of Lessor's right to exercise any or all remedies set forth herein;

(h) to immediately or at any time thereafter, and with or without notice, except as required herein, set off any money of Lessee held by Lessor under this Lease or any other Transaction Document against any sum owing by Lessee hereunder;

(i) Without limiting the generality of the foregoing or limiting in any way the rights of Lessor under this Lease or otherwise under applicable Laws, at any time after the occurrence, and during the continuance, of an Event of Default, Lessor shall be entitled to apply for and have a receiver appointed under applicable Law by a court of competent jurisdiction (by ex parte motion for appointment without notice) in any action taken by Lessor to enforce its rights and remedies hereunder in order to protect and preserve Lessor's interest under this Lease or in the Property, and in connection therewith, LESSEE HEREBY IRREVOCABLY CONSENTS TO AND WAIVES ANY RIGHT TO OBJECT TO OR OTHERWISE CONTEST THE APPOINTMENT OF A RECEIVER AFTER THE OCCURRENCE, AND DURING THE CONTINUANCE, OF AN EVENT OF DEFAULT;

(j) to use the Security Deposit as described in Section 4.10 hereof; and/or

(k) to seek any equitable relief available to Lessor, including, without limitation, the right of specific performance.

Section 12.03. Cumulative Remedies. All powers and remedies given by Section 12.02 to Lessor, subject to applicable Law, shall be cumulative and not exclusive of one another or of any other right or remedy or of any other powers and remedies available to Lessor under this Lease, by judicial proceedings or otherwise, to enforce the performance or observance of the covenants and agreements of Lessee contained in this Lease, and no delay or omission of Lessor to exercise any right or power accruing upon the occurrence of any Event of Default shall impair any other or subsequent Event of Default or impair any rights or remedies consequent thereto. Every power and remedy given by this Section or by Law to Lessor may be exercised from time to time, and as often as may be deemed expedient, by Lessor, subject at all times to Lessor's right in its sole judgment to discontinue any work commenced by Lessor or change any course of action undertaken by Lessor.

Section 12.04. Lessee Waiver. Lessee hereby expressly waives, for itself and all Persons claiming by, through and under Lessee, including creditors of all kinds, (a) any right and privilege which Lessee has under any present or future Legal Requirements to redeem the Property or to have a continuance of this Lease for the Lease Term after termination of Lessee's right of occupancy by order or judgment of any court or by any legal process or writ, or under the terms of this Lease; (b) the benefits of any present or future Legal Requirement that exempts property from liability for debt or for distress for rent; (c) any present or future Legal Requirement relating to notice or delay in levy of execution in case of eviction of a tenant for nonpayment of rent; and (d) any benefits and lien rights which may arise pursuant to any present or future Legal Requirement.

ARTICLE XIII

MORTGAGE, SUBORDINATION AND ATTORNMEN

Section 13.01. No Lessor Subordination. Lessor's interest in this Lease and/or the Property shall not be subordinate to any liens or encumbrances placed upon the Property by or resulting from any act of Lessee, and nothing herein contained shall be construed to require such subordination by Lessor.

Section 13.02. Subordination. Subject to Lessee's receipt of an SNDA reasonably acceptable to Lessee, this Lease at all times shall automatically be subordinate to the lien of any and all ground leases and Mortgages now or hereafter placed upon the Property by Lessor, and Lessee covenants and agrees to execute and deliver, upon demand, such further instruments subordinating this Lease to the lien of any or all such ground leases and Mortgages as shall be desired by Lessor, or any present or proposed mortgagees under trust deeds, upon the condition that Lessee shall have the right to remain in possession of the Property under the terms of this Lease, notwithstanding any default in any or all such ground leases or Mortgages, or after the foreclosure of any such Mortgages, so long as no Event of Default shall have occurred and be continuing.

Section 13.03. Election To Declare Lease Superior. If any mortgagee, receiver or other secured party elects to have this Lease and the interest of Lessee hereunder, be superior to any Mortgage and evidences such election by notice given to Lessee, then this Lease and the interest of Lessee hereunder shall be deemed superior to any such Mortgage, whether this Lease was executed before or after such Mortgage and in that event such mortgagee, receiver or other secured party shall have the same rights with respect to this Lease as if it had been

executed and delivered prior to the execution and delivery of such Mortgage and had been assigned to such mortgagee, receiver or other secured party.

Section 13.04. Attornment. In the event any purchaser or assignee of any Lender at a foreclosure sale acquires title to the Property, or in the event that any Lender or any purchaser or assignee otherwise succeeds to the rights of Lessor as landlord under this Lease, Lessee shall attorn to Lender or such purchaser or assignee, as the case may be (a "Successor Lessor"), and recognize the Successor Lessor as lessor under this Lease, and, subject to the provisions of this Article XIII, this Lease shall continue in full force and effect as a direct lease between the Successor Lessor and Lessee. The foregoing provision shall be self-operative and effective without the execution of any further instruments.

Section 13.05. Execution of Additional Documents. Although the provisions in this Article XIII shall be self-operative and no future instrument of subordination shall be required, upon request by Lessor Lessee shall execute and deliver whatever instruments may be reasonably required for such purposes.

Section 13.06. Notice to Lender. Lessee shall give written notice to any Lender having a recorded lien upon the Property or any part thereof of which Lessee has been notified of any breach or default by Lessor of any of its obligations under this Lease and give such Lender at least sixty (60) days beyond any notice period to which Lessor might be entitled to cure such default before Lessee may exercise any remedy with respect thereto; provided, however, such additional cure period shall not apply to any breach of Section 2.02 hereof.

Section 13.07. Leasehold Mortgage.

(a) Notwithstanding anything to the contrary in this Lease, at any time during the Lease Term, Lessee shall have the right to mortgage, pledge or otherwise encumber its interest in this Lease and the Property and Lessee's leasehold estate hereunder. If Lessee shall so mortgage Lessee's interest in this Lease to any mortgagee, Lessee or such mortgagee shall give Lessor prompt notice of such Lessee Mortgage and furnish Lessor with a complete and correct copy of such Lessee Mortgage (but only the copy thereof to be recorded in the public records, rather than other Lessee Mortgage loan documents, notwithstanding the definition of Lessee Mortgage contained herein), certified as such by Lessee, together with the name and address of such mortgagee. After receipt of the foregoing, Lessor shall give to such mortgagee, at the address of such mortgagee set forth in such notice, or at such other address as mortgagee or its successors and assigns as holder of the Lessee Mortgage may from time to time provided to Lessor, a copy of each notice of an Event of Default given by Lessor to Lessee; provided, however the failure to provide such notice shall not invalidate any notice provided to Lessee. The mortgagee shall have the right (but not the obligation) to remedy or attempt to remedy such Event of Default as set forth in this Section, and Lessor shall accept performance by a mortgagee (or its designee or nominee) of any covenant, condition or agreement on Lessee's part to be performed hereunder with the same force and effect as though performed by Lessee.

(b) Notwithstanding anything to the contrary contained in this Lease, Lessor shall not take any action to terminate this Lease or otherwise exercise or enforce any rights or remedies against Lessee or otherwise under this Lease arising from any Event

of Default on the part of Lessee under this Lease unless (i) Lessor shall have given Lessee written notice of such Event of Default and provided mortgagee a copy of such notice as provided in Section 13.07(a) above, (ii) such Event of Default shall remain uncured after Lessor shall have afforded to mortgagee a period in which to cure (or to cause Lessee or others to cure) such Event of Default which is (A) in the case of an Event of Default in the payment of Rental or other Monetary Obligation, five (5) Business Days after such mortgagee's receipt of such notice of Event of Default, and (B) in the case of any other Event of Default (so long as defaults in the payment of Rental and other Monetary Obligations are cured as and within the time periods specified in the foregoing clause (A)) (30) days after such mortgagee's receipt of such notice of the Event of Default or, if such Event of Default cannot with diligence be cured by mortgagee with such period, whether due to a need to acquire possession of the Property or otherwise, such longer period is reasonably necessary for mortgagee to effect such cure with diligence, including such time as mortgagee may require in order to foreclose its Lessee Mortgage or otherwise obtain possession of the Property, using diligent efforts to enforce its rights and remedies under the Lessee Mortgage (it being understood that mortgagee's time period in which to do so shall be extended in the event of a Lessee bankruptcy or similar event in light of the additional delays associated with such proceedings); provided, that in effecting a cure of any Event of Default, mortgagee shall have no obligation to cure any Event of Default which are not reasonably susceptible to being cured by such mortgagee (including without limitation Events of Default under Sections 12.01 (a), (d) and (h)), none of which shall be construed as continuing Events of Default upon mortgagee's cure of such Events of Default which are reasonably susceptible of being cured by mortgagee.

(c) No mortgagee shall become liable under the provisions of this Lease unless and until such time as it becomes, and then only for as long as it remains, the owner of the leasehold estate created hereby.

(d) Lessor shall not have any interest in and to any personal property and trade fixtures owned by Lessee and located at the Property.

(e) So long as the Lessee Mortgage has not been released, unless mortgagee shall otherwise expressly consent in writing, the fee title to the Property and the leasehold estate of Lessee created by the Lease shall not merge but shall remain separate and distinct, notwithstanding the acquisition of such fee title and such leasehold estate by Lessor or by Lessee or by a third party, by purchase or otherwise.

(f) Mortgagee may at any time, without Lessor's consent, sell, assign, participate or securitize all or any portion of mortgagee's rights and obligations under the Lessee Mortgage, and any such sale, assignment, participation or securitization may be to one or more financial institutions or other entities, to private investors, and/or into the public securities market, in mortgagee's sole discretion.

(g) If Lessee rejects, or attempts to reject, this Lease under Section 365 of the Bankruptcy Code or any similar or successor statute, or any rejection occurs thereunder for any reason, such rejection shall have no effect on mortgagee's rights as to Lessor under this Lease, which rights shall remain in full force and effect.

(h) .For purposes of this Section 13.07 and Section 13.08, a "mortgagee" shall mean any insurance company, savings bank, commercial bank (acting as a trustee, agent or otherwise), or other institutional lending source having a capital and surplus or net assets of at least Two Hundred Fifty Million Dollars (\$250,000,000).

(i) The provisions of this Lease pertaining to the rights and remedies of mortgagees including, but not limited to, Section 13.07 and Section 13.08 hereof, are for the benefit of the mortgagee and may be exercised by the mortgagee, at its sole discretion. Such provisions may be relied upon and shall be enforceable by the mortgagee.

Section 13.08. Replacement Mortgagee Lease.

(a) In the case of termination of this Lease for any reason (including, without limitation, as a result of (i) rejection of this Lease in any bankruptcy proceeding; or (ii) any Event of Default), Lessor shall give prompt notice thereof to the mortgagee in compliance with the provisions of Section 13.07(a). On written request of the mortgagee made within thirty (30) days after the receipt of such notice by mortgagee, Lessor shall execute and deliver to the mortgagee, or its designee or nominee approved by Lessor in its reasonable discretion, a new lease of the Property for the remainder of the Term upon all the covenants, conditions, limitations and agreements herein contained including, without limitation, Section 16.08 relating to the recordation of a memorandum of lease evidencing the lease, it being the intention of Lessor, Lessee and mortgagee to preserve the Lease and the leasehold estate created by the Lease for the benefit of mortgagee without interruption, provided that such mortgagee shall pay to Lessor, simultaneously with the delivery of such new lease, all unpaid Rental and other Monetary Obligations due under this Lease up to and including the, date of the commencement of the term of such new lease ("Back Rent") (but not any additional accelerated rent, liquidated damages or any other amounts in excess of unpaid Back Rent that would otherwise be payable by reason of Lessee's default or the termination of the Lease) and all expenses including, without limitation, reasonable attorneys' fees and disbursements and court costs, incurred by Lessor in connection with the Event of Default by Lessee, the termination of this Lease and the preparation of the new lease.

(b) Any such new lease and the leasehold estate thereby created and the title of mortgagee or its designee or nominee executing such new lease in and to the Property shall be upon and subject to the same conditions contained in this Lease. Concurrently with the execution and delivery of such new lease, Lessor shall assign to the tenant named therein all of its right, title and interest in and to moneys (including insurance and condemnation proceeds), if any, then held by or payable to Lessor which Lessee would have been entitled to receive but for termination of this Lease, and any sums then held by or payable to Lessor shall be deemed to be held by or payable to it as Lessor under the new lease.

ARTICLE XIV

ASSIGNMENT

Section 14.01. Assignment by Lessor. As a material inducement to Lessor's willingness to enter into the transactions contemplated by this Lease (the "Transaction") and the other Transaction Documents, Lessee hereby agrees that Lessor may, from time to time and at any time and without the consent of Lessee, engage in all or any combination of the following, or enter into agreements in connection with any of the following or in accordance with requirements that may be imposed by applicable securities, tax or other Laws: (a) the sale, assignment, grant, conveyance, transfer, financing, re-financing, purchase or re-acquisition of all, but not less than all of the Property, this Lease or any other Transaction Document, Lessor's right, title and interest in this Lease or any other Transaction Document, the servicing rights with respect to any of the foregoing, or participations in any of the foregoing; or (b) a Securitization and related transactions. Without in any way limiting the foregoing, the parties acknowledge and agree that Lessor, in its sole discretion, may assign this Lease or any interest herein to another Person (including without limitation, a taxable REIT subsidiary) in order to maintain Lessor's or any of its Affiliates' status as a REIT. In the event of any such sale or assignment other than a security assignment, Lessee shall attorn to such purchaser or assignee (so long as Lessor and such purchaser or assignee notify Lessee in writing of such transfer and such purchaser or assignee expressly assumes in writing the obligations of Lessor hereunder from and after the date of such assignment). At the request of Lessor, Lessee will execute such documents confirming the sale, assignment or other transfer and such other agreements as Lessor may reasonably request, provided that the same do not increase the liabilities and obligations of Lessee hereunder. Lessor shall be relieved, from and after the date of such transfer or conveyance, of liability for the performance of any obligation of Lessor contained herein, except for obligations or liabilities accrued prior to such assignment or sale.

Section 14.02. No Assignment by Lessee.

(a) Lessee acknowledges that Lessor has relied both on the business experience and creditworthiness of Lessee and upon the particular purposes for which Lessee intends to use the Property in entering into this Lease. Lessee shall not assign, transfer or convey this Lease or any interest herein or any interest in Lessee, whether by operation of law or otherwise, without the prior written consent of Lessor. At the time of any assignment of this Lease which is approved by Lessor, the assignee shall assume all of the obligations of Lessee under this Lease pursuant to a written assumption agreement in form and substance reasonably acceptable to Lessor. Such assignment of the Property pursuant to this Section 14.02(a) shall not relieve Lessee of its obligations respecting this Lease unless otherwise agreed to by Lessor. Any assignment, transfer or conveyance in violation of this Section 14.02(a) shall be voidable at the sole option of Lessor. Any consent to an assignment given by Lessor hereunder shall not be deemed a consent to any subsequent assignment.

(b) Notwithstanding anything to the contrary contained in Section 14.02(a) and provided that no Event of Default has occurred and is continuing and provided further that any assignee agrees to assume all of Lessee's obligations under this Lease, Lessee shall have the right to assign or otherwise transfer all, but not less than all, of its interest in, to and under this Lease without Lessor's consent to (i) an Affiliate of Lessee,

(ii) any entity which purchases or otherwise acquires all or substantially all of the assets or equity interest of Lessee in a bona fide sale for fair market value, or (iii) a Qualified Operator. A "Qualified Operator" shall mean a Person who, following the consummation of the assignment contemplated herein, (A) operates a minimum of 45 restaurants, 30 of which consist of a common regional or national restaurant brand, (B) has a CFCCR (defined below) of at least 1.25, (C) generates EBITDA (defined below) of at least \$9.5 million during a trailing twelve (12) month period, and (D) has a Lease Adjusted Leverage (defined below) of no more than 5.75x (each, a "Permitted Transfer"); provided, however, that Lessee may satisfy the foregoing conditions of a Qualified Operator by providing, or causing to be provided, a guaranty agreement, in form and substance reasonably acceptable to and approved by Lessor, in writing, which guaranty shall be from an entity that meets the requirements of (A), (B), (C) and (D) set forth in this Section 14.02(b). In the event that Lessee effects a Permitted Transfer pursuant to clause (iii), Lessee shall be released from any liability arising under this Lease from and after the date of such assignment. In the event that Lessee effects a Permitted Transfer pursuant to clauses (i) or (ii), Lessee shall not be released from liability under this Lease. In connection with an assignment by Lessee pursuant to this Section 14.02(b), Lessee shall have provided to Lessor, immediately prior to the effective date of such assignment, an officer's certificate executed by an officer of the assignee certifying the covenant provided in Section 5.01(g) of this Lease, based upon a list of parties identified by Lessor as holding a ten percent (10%) interest or more in Lessor. Lessor shall provide the written list described in the preceding sentence within five (5) business days of written request therefore by Lessee and, in the absence of timely provision of such list, such officer's certificate shall be based on the latest written list delivered by Lessor to Lessee.

For purposes hereof:

"CFCCR" means with respect to the twelve month period of time immediately preceding the date of determination, the ratio calculated for such period of time, each as determined in accordance with GAAP, of (i) the sum of Net Income (excluding non-cash income), Depreciation and Amortization, Interest Expense, Operating Lease Expense and non-cash expenses to (ii) the sum of Operating Lease Expense, scheduled principal payments of long term Debt, scheduled maturities of all Capital Leases, dividends and Interest Expense (excluding non-cash interest expense and amortization of non-cash financing expenses). For purposes of calculating the CFCCR, the following terms shall be defined as set forth below:

"Capital Lease" shall mean all leases of any property, whether real, personal or mixed, by a Person, which leases would, in conformity with GAAP, be required to be accounted for as a capital lease on the balance sheet of such Person. The term "Capital Lease" shall not include any operating lease.

"Debt" shall mean with respect to a Person, and for the period of determination (i) indebtedness for borrowed money, (ii) subject to the limitation set forth in sub item (iv) below, obligations evidenced by bonds, indentures, notes or similar instruments, (iii) obligations under leases which should be, in accordance with GAAP, recorded as Capital Leases, and (iv) obligations under direct or indirect guarantees in respect of, and obligations (contingent or otherwise) to purchase or otherwise acquire, or otherwise to assure a creditor against loss in respect of, indebtedness or obligations of others of the

kinds referred to in clauses (i) through (iv) above, except for guaranty obligations of such Person, which, in conformity with GAAP, are not included on the balance sheet of such Person.

"Depreciation and Amortization" shall mean the depreciation and amortization accruing during any period of determination with respect to a Person, as determined in accordance with GAAP.

"Interest Expense" shall mean for any period of determination, the sum of all interest accrued or which should be accrued in respect of all Debt of a Person, as determined in accordance with GAAP.

"Net Income" shall mean with respect to the period of determination, the net income or net loss of a Person. In determining the amount of Net Income, (i) adjustments shall be made for nonrecurring gains and losses or non-cash items allocable to the period of determination, (ii) deductions shall be made for, among other things, Depreciation and Amortization, Interest Expense, Operating Lease Expense, and (iii) no deductions shall be made for income taxes or charges equivalent to income taxes allocable to the period of determination, as determined in accordance with GAAP.

"Operating Lease Expense" shall mean the sum of all payments and expenses incurred by a Person, under any operating leases during the period of determination, as determined in accordance with GAAP.

"EBITDA" means for the twelve (12) month period ending on the date of determination, the sum of a Person's net income (loss) for such period plus, in each case to the extent previously deducted in calculating net income (loss): (1) income taxes, (2) principal and interest payments on all of its debt obligations (including any borrowings under short term credit facilities), (3) all non-cash charges including depreciation and amortization, and (4) Non-Recurring Items (defined below).

"EBITDAR" means the sum of a Person's EBITDA and its total land and building rent for the twelve (12) month period ending on the date of determination.

"Lease Adjusted Leverage" means with respect to a Person, as of any applicable date, the sum of (1) eight (8) times such Person's total land and building rent for the twelve (12) month period ending on the date of determination, and (2) the total current balance of such Person's total debt obligations (including any borrowings under short term credit facilities) on such date, divided by EBITDAR.

"Non-Recurring Items" shall mean with respect to a Person, items of the sum (whether positive or negative) of revenue minus expenses that, in the judgment of Lessor, are unusual in nature, occur infrequently and are not representative of the ongoing or future earnings or expenses of such Person.

Section 14.03. No Sale of Assets. Without the prior written consent of Lessor, Lessee shall not sell all or substantially all of Lessee's assets that are located at or used in connection with the operation of the Property other than in connection with a Permitted Transfer to a Qualified Operator pursuant to Section 14.02(b). Any sale of Lessee's assets in violation of this

Section 14.03, shall be voidable at the sole option of Lessor. Any consent to a sale of Lessee's assets given by Lessor hereunder shall not be deemed a consent to any subsequent sale of Lessee's assets.

Section 14.04. No Subletting. Lessee shall not sublet any or all of the Property without the prior written consent of Lessor and any such purported subletting without such consent shall be void.

ARTICLE XV

NOTICES

Section 15.01. Notices. All notices, demands, designations, certificates, requests, offers, consents, approvals, appointments and other instruments given pursuant to this Lease shall be in writing and given by any one of the following: (a) hand delivery; (b) express overnight delivery service; (c) certified or registered mail, return receipt requested; or (d) email or facsimile transmission, and shall be deemed to have been delivered upon (i) receipt, if hand delivered; (ii) the next Business Day, if delivered by a reputable express overnight delivery service; (iii) the third Business Day following the day of deposit of such notice with the United States Postal Service, if sent by certified or registered mail, return receipt requested; or (iv) transmission, if delivered by email or facsimile transmission. Notices shall be provided to the parties and addresses (or electronic mail addresses) specified below:

If to Lessee:	AB GILLETTE WY LLC c/o Hannay Realty Advisors 2999 N. 44th Street, Suite 400 Phoenix, Arizona 85018 Attn: R. Craig Hannay Email: channay@hannayra.com
If to Lessor:	STORE Master Funding II, LLC 8377 E. Hartford Drive, Suite 100 Scottsdale, Arizona 85255 Attention: Asset Management Telephone: (480) 256-1100 Facsimile: (480) 256-1101 Email: customerservice@storecapital.com
With a copy to:	Kutak Rock LLP 1801 California Street, Suite 3000 Denver, CO 80202 Attention: Lauren E. Hirt, Esq. Telephone: (303) 297-2400 Facsimile: (303) 292-7799 Email: lauren.hirt@kutakrock.com

or to such other address or such other person as either party may from time to time hereafter specify to the other party in a notice delivered in the manner provided above.

ARTICLE XVI

MISCELLANEOUS

Section 16.01. Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, acts of God, enemy or hostile governmental action, civil commotion, fire or other casualty beyond the control of the party obligated to perform (each, a "Force Majeure Event") shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage, expressly excluding, however, the obligations imposed upon Lessee with respect to Rental and other Monetary Obligations to be paid hereunder.

Section 16.02. No Merger. There shall be no merger of this Lease nor of the leasehold estate created by this Lease with the fee estate in or ownership of the Property by reason of the fact that the same person, corporation, firm or other entity may acquire or hold or own, directly or indirectly, (a) this Lease or the leasehold estate created by this Lease or any interest in this Lease or in such leasehold estate, and (b) the fee estate or ownership of the Property or any interest in such fee estate or ownership. No such merger shall occur unless and until all persons, corporations, firms and other entities having any interest in (i) this Lease or the leasehold estate created by this Lease, and (ii) the fee estate in or ownership of the Property or any part thereof sought to be merged shall join in a written instrument effecting such merger and shall duly record the same.

Section 16.03. Interpretation. Lessor and Lessee acknowledge and warrant to each other that each has been represented by independent counsel and has executed this Lease after being fully advised by said counsel as to its effect and significance. This Lease shall be interpreted and construed in a fair and impartial manner without regard to such factors as the party which prepared the instrument, the relative bargaining powers of the parties or the domicile of any party. Whenever in this Lease any words of obligation or duty are used, such words or expressions shall have the same force and effect as though made in the form of a covenant.

Section 16.04. Characterization. The following expressions of intent, representations, warranties, covenants, agreements, stipulations and waivers are a material inducement to Lessor entering into this Lease:

(a) Lessor and Lessee intend that (i) this Lease is a "true lease," is not a financing lease, capital lease, mortgage, equitable mortgage, deed of trust, trust agreement, security agreement or other financing or trust arrangement, and the economic realities of this Lease are those of a true lease; and (ii) the business relationship created by this Lease and any related documents is solely that of a long-term commercial lease between Lessor and Lessee, the Lease has been entered into by both parties in reliance upon the economic and legal bargains contained herein, and none of the agreements contained herein is intended, nor shall the same be deemed or construed, to create a partnership (*de facto* or *de jure*) between Lessor and Lessee, to make them joint venturers, to make Lessee an agent, legal representative, partner, subsidiary or employee of Lessor, nor to make Lessor in any way responsible for the debts, obligations or losses of Lessee.

(b) Lessor and Lessee covenant and agree that: (i) each will treat this Lease as an operating lease pursuant to Statement of Financial Accounting Standards No. 13, as amended, and as a true lease for state law reporting purposes and for federal income tax purposes; (ii) each party will not, nor will it permit any Affiliate to, at any time, take any action or fail to take any action with respect to the preparation or filing of any statement or disclosure to Governmental Authority, including without limitation, any income tax return (including an amended income tax return), to the extent that such action or such failure to take action would be inconsistent with the intention of the parties expressed in this Section 16.04; (iii) with respect to the Property, the Lease Term (excluding any Extension Term) is less than eighty percent (80%) of the estimated remaining economic life of the Property; and (iv) the Base Annual Rental is the fair market value for the use of the Property and was agreed to by Lessor and Lessee on that basis, and the execution and delivery of, and the performance by Lessee of its obligations under, this Lease do not constitute a transfer of the Property.

(c) Lessee waives any claim or defense based upon the characterization of this Lease as anything other than a true lease of the Property. Lessee stipulates and agrees (i) not to challenge the validity, enforceability or characterization of the lease of the Property as a true lease; and (ii) not to assert or take or omit to take any action inconsistent with the agreements and understandings set forth in this Section 16.04.

Section 16.05. Disclosure. The parties agree that, notwithstanding any provision contained in this Lease, any party (and each employee, representative or other agent of any party) may disclose to any and all persons, without limitation of any kind, any matter required under the Securities Act or the Exchange Act.

Section 16.06. Bankruptcy. As a material inducement to Lessor executing this Lease, Lessee acknowledges and agrees that Lessor is relying upon (a) the financial condition and specific operating experience of Lessee and Lessee's obligation to use the Property as a Permitted Facility specifically in accordance with a Franchise Agreement; (b) Lessee's timely performance of all of its obligations under this Lease notwithstanding the entry of an order for relief under the Bankruptcy Code for Lessee; and (c) all defaults under this Lease being cured promptly and this Lease being assumed within sixty (60) days of any order for relief entered under the Bankruptcy Code for Lessee, or this Lease being rejected within such sixty (60)-day period and the Property surrendered to Lessor. Accordingly, in consideration of the mutual covenants contained in this Lease and for other good and valuable consideration, Lessee hereby agrees that: (i) all obligations that accrue under this Lease (including the obligation to pay Rentals), from and after an Insolvency Event shall be timely performed exactly as provided in this Lease and any failure to so perform shall be harmful and prejudicial to Lessor; (ii) any and all Rentals that accrue from and after an Insolvency Event and that are not paid as required by this Lease shall, in the amount of such Rentals, constitute administrative expense claims allowable under the Bankruptcy Code with priority of payment at least equal to that of any other actual and necessary expenses incurred after an Insolvency Event; (iii) any extension of the time period within which Lessee may assume or reject this Lease without an obligation to cause all obligations under this Lease to be performed as and when required under this Lease shall be harmful and prejudicial to Lessor; (iv) any time period designated as the period within which Lessee must cure all defaults and compensate Lessor for all pecuniary losses which extends beyond the date of assumption of this Lease shall be harmful and prejudicial to Lessor; (v) any assignment of this Lease must result in all terms and conditions of this Lease being assumed by

the assignee without alteration or amendment, and any assignment which results in an amendment or alteration of the terms and conditions of this Lease without the express written consent of Lessor shall be harmful and prejudicial to Lessor; (vi) any proposed assignment of this Lease shall be harmful and prejudicial to Lessor if made to an assignee: (A) that does not possess financial condition adequate to operate a Permitted Facility upon the Property or operating performance and experience characteristics satisfactory to Lessor equal to or better than the financial condition, operating performance and experience of Lessee as of the Effective Date; (B) that does not provide guarantors of the lease obligations with financial condition equal to or better than the financial condition of the Guarantor as of the Effective Date; or (C) that will not use the Property specifically in accordance with a Franchise Agreement; and (vii) the rejection (or deemed rejection) of this Lease for any reason whatsoever shall constitute cause for immediate relief from the automatic stay provisions of the Bankruptcy Code, and Lessee stipulates that such automatic stay shall be lifted immediately and possession of the Property will be delivered to Lessor immediately without the necessity of any further action by Lessor. No provision of this Lease shall be deemed a waiver of Lessor's rights or remedies under the Bankruptcy Code or applicable Law to oppose any assumption and/or assignment of this Lease, to require timely performance of Lessee's obligations under this Lease, or to regain possession of the Property as a result of the failure of Lessee to comply with the terms and conditions of this Lease or the Bankruptcy Code. Notwithstanding anything in this Lease to the contrary, all amounts payable by Lessee to or on behalf of Lessor under this Lease, whether or not expressly denominated as such, shall constitute "rent" for the purposes of the Bankruptcy Code. For purposes of this Section addressing the rights and obligations of Lessor and Lessee upon an Insolvency Event, the term "Lessee" shall include Lessee's successor in bankruptcy, whether a trustee, Lessee as debtor in possession or other responsible person.

Section 16.07. Attorneys' Fees. In the event of any judicial or other adversarial proceeding concerning this Lease, to the extent permitted by Law, the prevailing party shall be entitled to recover all of its reasonable attorneys' fees and other Costs in addition to any other relief to which it may be entitled.

Section 16.08. Memoranda of Lease. Concurrently with the execution of this Lease, Lessor and Lessee are executing Lessor's standard form memorandum of lease in recordable form, indicating the names and addresses of Lessor and Lessee, a description of the Property, the Lease Term, but omitting Rentals and such other terms of this Lease as Lessor may not desire to disclose to the public. In connection with the termination of this Lease, upon Lessor's request, Lessee agrees to execute and acknowledge a termination of lease and/or quitclaim deed in recordable form; *provided, however*, if Lessee shall fail or refuse to sign such a document in accordance with the provisions of this Section within ten (10) days following a request by Lessor, Lessee irrevocably constitutes and appoints Lessor as its attorney-in-fact to execute and record such document, it being stipulated that such power of attorney is coupled with an interest and is irrevocable and binding.

Section 16.09. No Brokerage. Lessor and Lessee represent and warrant to each other that they have had no conversation or negotiations with any broker concerning the leasing of the Property. Each of Lessor and Lessee agrees to protect, indemnify, save and keep harmless the other, against and from all liabilities, claims, losses, Costs, damages and expenses, including attorneys' fees, arising out of, resulting from or in connection with their breach of the foregoing warranty and representation.

Section 16.10. Waiver of Jury Trial and Certain Damages. LESSOR AND LESSEE HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY AND ALL ISSUES PRESENTED IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER OR ITS SUCCESSORS WITH RESPECT TO ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS LEASE, THE RELATIONSHIP OF LESSOR AND LESSEE, LESSEE'S USE OR OCCUPANCY OF THE PROPERTY, AND/OR ANY CLAIM FOR INJURY OR DAMAGE, OR ANY EMERGENCY OR STATUTORY REMEDY. THIS WAIVER BY THE PARTIES HERETO OF ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY HAS BEEN NEGOTIATED AND IS AN ESSENTIAL ASPECT OF THEIR BARGAIN. FURTHERMORE, THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO SEEK PUNITIVE, CONSEQUENTIAL, SPECIAL AND INDIRECT DAMAGES FROM EACH OTHER AND ANY OF THEIR RESPECTIVE AFFILIATES, OFFICERS, DIRECTORS, MEMBERS, MANAGERS OR EMPLOYEES OR ANY OF THEIR SUCCESSORS WITH RESPECT TO ANY AND ALL ISSUES PRESENTED IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT WITH RESPECT TO ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS LEASE OR ANY DOCUMENT CONTEMPLATED HEREIN OR RELATED HERETO. THE WAIVER OF ANY RIGHT TO SEEK PUNITIVE, CONSEQUENTIAL, SPECIAL AND INDIRECT DAMAGES HAS BEEN NEGOTIATED BY THE PARTIES HERETO AND IS AN ESSENTIAL ASPECT OF THEIR BARGAIN.

Section 16.11. Securitizations. As a material inducement to Lessor's willingness to enter into the Transactions contemplated by this Lease and the other Transaction Documents, Lessee hereby acknowledges and agrees that Lessor may, from time to time and at any time (a) advertise, issue press releases, send direct mail or otherwise disclose information regarding the Transaction for marketing purposes; and (b) (i) act or permit another Person to act as sponsor, settler, transferor or depositor of, or a holder of interests in, one or more Persons or other arrangements formed pursuant to a trust agreement, indenture, pooling agreement, participation agreement, sale and servicing agreement, limited liability company agreement, partnership agreement, articles of incorporation or similar agreement or document; and (ii) permit one or more of such Persons or arrangements to offer and sell stock, certificates, bonds, notes, other evidences of indebtedness or securities that are directly or indirectly secured, collateralized or otherwise backed by or represent a direct or indirect interest in whole or in part in any of the assets, rights or properties described in Section 14.01 of this Lease, in one or more Persons or arrangements holding such assets, rights or properties, or any of them (collectively, the "Securities"), whether any such Securities are privately or publicly offered and sold, or rated or unrated (any combination of which actions and transactions described in both clauses (i) and (ii) in this paragraph, whether proposed or completed, are referred to in this Lease as a "Securitization"). Lessee shall, at no cost or expense to Lessee, cooperate fully with Lessor and any Affected Party with respect to all reasonable requests and due diligence procedures and to use reasonable efforts to facilitate such Securitization, including, without limitation, providing for inclusion in any prospectus or other Securities offering material such documents, financial and other data, and other information and materials which would customarily be required with respect to Lessee by a purchaser, transferee, assignee, servicer, participant, investor or rating agency involved with respect to such Securitization.

Section 16.12. State-Specific Provisions. The provisions and/or remedies which are set forth on the attached Exhibit D shall be deemed a part of and included within the terms and conditions of this Lease.

Section 16.13. Time Is of the Essence; Computation. Time is of the essence with respect to each and every provision of this Lease. If any deadline provided herein falls on a non-Business Day, such deadline shall be extended to the next day that is a Business Day.

Section 16.14. Waiver and Amendment. No provision of this Lease shall be deemed waived or amended except by a written instrument unambiguously setting forth the matter waived or amended and signed by the party against which enforcement of such waiver or amendment is sought. Waiver of any matter shall not be deemed a waiver of the same or any other matter on any future occasion. No acceptance by Lessor of an amount less than the Rental and other Monetary Obligations stipulated to be due under this Lease shall be deemed to be other than a payment on account of the earliest such Rental or other Monetary Obligations then due or in arrears nor shall any endorsement or statement on any check or letter accompanying any such payment be deemed a waiver of Lessor's right to collect any unpaid amounts or an accord and satisfaction.

Section 16.15. Successors Bound. Except as otherwise specifically provided herein, the terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of the respective heirs, successors, executors, administrators and assigns of each of the parties hereto.

Section 16.16. Captions. Captions are used throughout this Lease for convenience of reference only and shall not be considered in any manner in the construction or interpretation hereof.

Section 16.17. Other Documents. Each of the parties agrees to sign such other and further documents as may be necessary or appropriate to carry out the intentions expressed in this Lease.

Section 16.18. Entire Agreement. This Lease and any other instruments or agreements referred to herein, constitute the entire agreement between the parties with respect to the subject matter hereof, and there are no other representations, warranties or agreements except as herein provided.

Section 16.19. Forum Selection; Jurisdiction; Venue; Choice of Law. For purposes of any action or proceeding arising out of this Lease, the parties hereto expressly submit to the jurisdiction of all federal and state courts located in the state where the Property is located. Lessee consents that it may be served with any process or paper by registered mail or by personal service within or without the state where the Property is located in accordance with applicable law. Furthermore, Lessee waives and agrees not to assert in any such action, suit or proceeding that it is not personally subject to the jurisdiction of such courts, that the action, suit or proceeding is brought in an inconvenient forum or that venue of the action, suit or proceeding is improper. Nothing contained in this Section shall limit or restrict the right of Lessor to commence any proceeding in the federal or state courts located in the state where the Property is located to the extent Lessor deems such proceeding necessary or advisable to exercise remedies available under this Lease. This Lease shall be governed by, and construed with, the

laws of the applicable state in which the Property is located, without giving effect to any state's conflict of laws principles.

Section 16.20. Counterparts. This Lease may be executed in one or more counterparts, each of which shall be deemed an original. Furthermore, the undersigned agree that transmission of this Lease via e-mail in a ".pdf" or other electronic format shall be deemed transmission of the original Lease for all purposes.

Section 16.21. Franchisor Rider. The Applebee's Restaurant Franchisee Lease Rider of even date herewith between the parties hereto, a copy of which is attached hereto, is hereby incorporated herein by this reference.

[Remainder of page intentionally left blank; signature page(s) to follow]

IN WITNESS WHEREOF, Lessor and Lessee have entered into this Lease as of the date first above written.

LESSOR:

STORE MASTER FUNDING II, LLC, a Delaware limited liability company

By:  _____

Printed Name: _____ **Lori Markson**

Title: _____ **Senior Vice President**

Date of execution by Lessor:

_____, 2019

IN WITNESS WHEREOF, Lessor and Lessee have entered into this Lease as of the date first above written.

LESSEE:

AB GILLETTE WY LLC, a Wyoming limited liability company

By: 

Printed Name: Shaun Eby

Title: President

Date of execution by Lessee:

August 29th, 2019

EXHIBITS AND ATTACHEMENTS

Exhibit A: Defined Terms

Exhibit B: Legal Description and Street Address of Property

Exhibit C: Authorization Agreement – Pre-Arranged Payments

Exhibit D: State-Specific Provisions

Applebee's Restaurants Franchisee Lease Rider

EXHIBIT A
DEFINED TERMS

The following terms shall have the following meanings for all purposes of this Lease:

"Additional Rental" has the meaning set forth in Section 4.03.

"Adjustment Date" has the meaning set forth in Section 1.07.

"Affected Party" means each direct or indirect participant or investor in a proposed or completed Securitization, including, without limitation, any prospective owner, any rating agency or any party to any agreement executed in connection with the Securitization.

"Affiliate" means any Person which directly or indirectly controls, is under common control with or is controlled by any other Person. For purposes of this definition, "controls," "under common control with," and "controlled by" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or otherwise.

"Anti-Money Laundering Laws" means all applicable laws, regulations and government guidance on the prevention and detection of money laundering, including, without limitation, (a) 18 U.S.C. §§ 1956 and 1957; and (b) the Bank Secrecy Act, 31 U.S.C. §§ 5311 et seq., and its implementing regulations, 31 CFR Part 103.

"Applicable Breakpoint" shall have the meaning set forth in Section 4.09.

"AST and UST Laws" shall have the meaning set forth in Section 8.04(g).

"Bankruptcy Code" means the United States Bankruptcy Code, 11 U.S.C. Sec. 101 et seq., as amended.

"Base Annual Rental" has the meaning set forth in Section 1.05.

"Base Monthly Rental" means an amount equal to 1/12 of the applicable Base Annual Rental.

"Business Day" means a day on which banks located in the city and state where the Property is located are not required or authorized to remain closed.

"Casualty" means any loss of or damage to any property included within or related to the Property or arising from an adjoining property caused by an Act of God, fire, flood or other catastrophe.

"Code" means the Internal Revenue Code of 1986, as the same may be amended from time to time.

"Condemnation" means a Taking and/or a Requisition.

"Costs" means all reasonable costs and expenses incurred by a Person, including, without limitation, reasonable attorneys' fees and expenses, court costs, expert witness fees, costs of tests and analyses, travel and accommodation expenses, deposition and trial transcripts, copies and other similar costs and fees, brokerage fees, escrow fees, title insurance premiums, appraisal fees, stamp taxes, recording fees and transfer taxes or fees, as the circumstances require.

"Default Rate" means 12% per annum or the highest rate permitted by law, whichever is less.

"Effective Date" has the meaning set forth in the introductory paragraph of this Lease.

"Environmental Laws" means applicable federal, state and local laws, ordinances, common law requirements and regulations and standards, rules, policies and other governmental requirements, administrative rulings and court judgments and decrees having the effect of law in effect now or in the future and including all amendments, that relate to Hazardous Materials, USTs, and/or the protection of human health or the environment, or relating to liability for or Costs of Remediation or prevention of Releases, and apply to Lessee and/or the Property.

"Environmental Liens" has the meaning set forth in Section 8.04(a)(i)(D).

"Event of Default" has the meaning set forth in Section 12.01.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Expiration Date" has the meaning set forth in Section 3.01.

"Extension Option" has the meaning set forth in Section 3.02.

"Extension Term" has the meaning set forth in Section 3.02.

"Force Majeure Event" has the meaning set forth in Section 16.01.

"Franchise Agreement" has the meaning set forth in Section 5.01(h).

"Franchisor" means Applebee's Franchisor LLC, or its successors and permitted assigns.

"GAAP" means generally accepted accounting principles, consistently applied from period to period.

"Governmental Authority" means any governmental authority, agency, department, commission, bureau, board, instrumentality, court or quasi-governmental authority of the United States, any state or any political subdivision thereof with authority to adopt, modify, amend, interpret, give effect to or enforce any federal, state and local laws, statutes, ordinances, rules or regulations, including common law, or to issue court orders.

"Guarantor" means, collectively and jointly and severally, RMH Franchise Holdings, Inc., a Delaware corporation, RMH Franchise Corporation, a Kansas corporation, Goalz Restaurant

Group, LLC, a Wyoming limited liability company and Goalz 4 LLC, a Delaware limited liability company, Shawn Eby, an individual and Corey Hupp, an individual, or any additional or replacement guarantor(s) approved by Lessor in its sole and absolute discretion.

"Guaranty" means those certain Unconditional Guarantees of Payment and Performance dated as of the date hereof given by Guarantor for the benefit of Lessor, as the same may be amended from time to time.

"Hazardous Materials" includes: (a) oil, petroleum products, flammable substances, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other materials, contaminants or pollutants which pose a hazard to the Property or to Persons on or about the Property, cause the Property to be in violation of any local, state or federal law or regulation, (including without limitation, any Environmental Law), or are defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "toxic substances," "contaminants," "pollutants," or words of similar import under any applicable local, state or federal law or under the regulations adopted, orders issued, or publications promulgated pursuant thereto, including, but not limited to: (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.; (ii) the Hazardous Materials Transportation Act, as amended, 49 U.S.C. § 5101, et seq.; (iii) the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901, et seq.; and (iv) regulations adopted and publications promulgated pursuant to the aforesaid laws; (b) asbestos in any form which is or could become friable, urea formaldehyde foam insulation, dielectric fluid containing levels of polychlorinated biphenyls in excess of fifty (50) parts per million; and (c) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any governmental authority under any Environmental Law or which may or could pose a hazard to the health and safety of the occupants of the Property or the owners and/or occupants of any adjoining property.

"Indemnified Parties" means Lessor and its members, managers, officers, directors, shareholders, successors and assigns, including, but not limited to, any successors by merger, consolidation or acquisition of all or a substantial portion of the assets and business of Lessor.

"Initial Term" has the meaning set forth in Section 3.01.

"Insolvency Event" means (a) a Person's (i) failure to generally pay its debts as such debts become due; (ii) admitting in writing its inability to pay its debts generally; or (iii) making a general assignment for the benefit of creditors; (b) any proceeding being instituted by or against any Person (i) seeking to adjudicate it bankrupt or insolvent; (ii) seeking liquidation, dissolution, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any law relating to bankruptcy, insolvency, or reorganization or relief of debtors; or (iii) seeking the entry of an order for relief or the appointment of a receiver, trustee, or other similar official for it or for any substantial part of its property, and in the case of any such proceeding instituted against any Person, either such proceeding shall remain undismissed for a period of one hundred twenty (120) days or any of the actions sought in such proceeding shall occur; or (c) any Person taking any corporate action to authorize any of the actions set forth above in this definition.

"Insurance Premiums" shall have the meaning in Section 6.04.

"*Law(s)*" means any constitution, statute, rule of law, code, ordinance, order, judgment, decree, injunction, rule, regulation, policy, requirement or administrative or judicial determination, even if unforeseen or extraordinary, of every duly constituted Governmental Authority, court or agency, now or hereafter enacted or in effect.

"*Lease Term*" shall have the meaning described in Section 3.01.

"*Legal Requirements*" means the requirements of all present and future Laws (including, without limitation, Environmental Laws and Laws relating to accessibility to, usability by, and discrimination against, disabled individuals), all judicial and administrative interpretations thereof, including any judicial order, consent, decree or judgment, and all covenants, restrictions and conditions now or hereafter of record which may be applicable to Lessee or to the Property, or to the use, manner of use, occupancy, possession, operation, maintenance, alteration, repair or restoration of the Property, even if compliance therewith necessitates structural changes or improvements or results in interference with the use or enjoyment of the Property.

"*Lender*" means any lender in connection with any loan secured by Lessor's interest in any or all of the Property, and any servicer of any loan secured by Lessor's interest in any or all of the Property.

"*Lessee Entity*" or "*Lessee Entities*" means individually or collectively, as the context may require, Lessee and Guarantor.

"*Lessee Mortgage*" shall mean any mortgage which constitutes a lien on Lessee's interest in this Lease and the leasehold estate created hereby. Unless otherwise indicated herein, the term Lessee Mortgage as used from time to time in this Lease shall be deemed to include the promissory note, loan agreement and/or other loan documents related to such Mortgage.

"*Lessor Entity*" or "*Lessor Entities*" means individually or collectively, as the context may require, Lessor and all Affiliates of Lessor.

"*Losses*" means any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, Costs, diminutions in value, fines, penalties, interest, charges, fees, judgments, awards, amounts paid in settlement and damages of whatever kind or nature, inclusive of bodily injury and property damage to third parties (including, without limitation, attorneys' fees and other Costs of defense).

"*Material Adverse Effect*" means a material adverse effect on (a) the Property, including, without limitation, the operation of the Property as a Permitted Facility and/or the value of the Property; (b) the contemplated business, condition, worth or operations of any Lessee Entity; (c) Lessee's ability to perform its obligations under this Lease; or (d) Lessor's interests in the Property, this Lease or the other Transaction Documents; or (e) any Guarantor's ability to perform its obligations under the Guaranty.

"*Monetary Obligations*" means all Rental and all other sums payable or reimbursable by Lessee under this Lease to Lessor, to any third party on behalf of Lessor, or to any Indemnified Party.

"Mortgages" means, collectively, the mortgages, deeds of trust or deeds to secure debt, assignments of rents and leases, security agreements and fixture filings executed by Lessor for the benefit of Lender with respect to the Property, as such instruments may be amended, modified, restated or supplemented from time to time and any and all replacements or substitutions.

"Net Award" means (a) the entire award payable with respect to the Property by reason of a Condemnation whether pursuant to a judgment or by agreement or otherwise; or (b) the entire proceeds of any insurance required under Section 6.03 payable with respect to the Property, as the case may be, and in either case, less any Costs incurred by Lessor or Lessee in collecting such award or proceeds.

"OFAC Laws" means Executive Order 13224 issued by the President of the United States, and all regulations promulgated thereunder, including, without limitation, the Terrorism Sanctions Regulations (31 CFR Part 595), the Terrorism List Governments Sanctions Regulations (31 CFR Part 596), the Foreign Terrorist Organizations Sanctions Regulations (31 CFR Part 597), and the Cuban Assets Control Regulations (31 CFR Part 515), and all other present and future federal, state and local laws, ordinances, regulations, policies, lists (including, without limitation, the Specially Designated Nationals and Blocked Persons List) and any other requirements of any Governmental Authority (including without limitation, the U.S. Department of the Treasury Office of Foreign Assets Control) addressing, relating to, or attempting to eliminate, terrorist acts and acts of war, each as supplemented, amended or modified from time to time after the Effective Date, and the present and future rules, regulations and guidance documents promulgated under any of the foregoing, or under similar laws, ordinances, regulations, policies or requirements of other states or localities.

"Original Lease" has the meaning set forth in the second introductory paragraph of this Lease.

"Percentage Rental" shall have the meaning set forth in Section 4.09.

"Partial Condemnation" has the meaning set forth in Section 11.03.

"Permitted Amounts" shall mean, with respect to any given level of Hazardous Materials, that level or quantity of Hazardous Materials in any form or combination of forms which does not constitute a violation of any Environmental Laws and is customarily employed in, or associated with, similar businesses located in the state where the Property is located.

"Permitted Facility" means an Applebee's Neighborhood Grill & Bar, all related purposes such as ingress, egress and parking, and uses incidental thereto.

"Person" means any individual, partnership, corporation, limited liability company, trust, unincorporated organization, Governmental Authority or any other form of entity.

"Price Index" means the Consumer Price Index which is designated for the applicable month of determination as the United States City Average for All Urban Consumers, All Items, Not Seasonally Adjusted, with a base period equaling 100 in 1982 - 1984, as published by the United States Department of Labor's Bureau of Labor Statistics or any successor agency. In the event that the Price Index ceases to be published, its successor index measuring cost of

living as published by the same Governmental Authority which published the Price Index shall be substituted and any necessary reasonable adjustments shall be made by Lessor and Lessee in order to carry out the intent of Section 4.02. In the event there is no successor index measuring cost of living, Lessor shall reasonably select an alternative price index measuring cost of living that will constitute a reasonable substitute for the Price Index.

"Property" means that parcel of real estate legally described on Exhibit B attached hereto, all rights, privileges, and appurtenances associated therewith, and all buildings, non-trade fixtures and other improvements now or hereafter located on such real estate.

"Real Estate Taxes" has the meaning set forth in Section 6.04.

"REIT" means a real estate investment trust as defined under Section 856 of the Code.

"Release" means any presence, release, deposit, discharge, emission, leaking, spilling, seeping, migrating, injecting, pumping, pouring, emptying, escaping, dumping, disposing or other movement of Hazardous Materials.

"Remediation" means any response, remedial, removal, or corrective action, any activity to cleanup, detoxify, decontaminate, contain or otherwise remediate any Hazardous Materials, any actions to prevent, cure or mitigate any Release, any action to comply with any Environmental Laws or with any permits issued pursuant thereto, any inspection, investigation, study, monitoring, assessment, audit, sampling and testing, laboratory or other analysis, or any evaluation relating to any Hazardous Materials.

"Rental" means, collectively, the Base Annual Rental, Percentage Rental and the Additional Rental.

"Rental Adjustment" means an amount equal to the lesser of (a) 1.5% of the Base Annual Rental in effect immediately prior to the applicable Adjustment Date, or (b) 1.25 multiplied by the product of (i) the percentage change between the Price Index for the month which is two months prior to November, 2018 or the Price Index used for the immediately preceding Adjustment Date, as applicable, and the Price Index for the month which is two months prior to the applicable Adjustment Date; and (ii) the then current Base Annual Rental.

"Reserve" shall have the meaning in Section 6.04.

"Sales" shall have the meaning set forth in Section 4.09.

"Securities" has the meaning set forth in Section 16.11.

"Securities Act" means of the Securities Act of 1933, as amended.

"Securitization" has the meaning set forth in Section 16.11.

"Security Deposit" has the meaning set forth in Section 4.10.

"SNDA" means subordination, nondisturbance and attornment agreement.

"Successor Lessor" has the meaning set forth in Section 13.04.

"Taking" means (a) any taking or damaging of all or a portion of the Property (i) in or by condemnation or other eminent domain proceedings pursuant to any Law, general or special; (ii) by reason of any agreement with any condemnor in settlement of or under threat of any such condemnation or other eminent domain proceeding; or (iii) by any other means; or (b) any de facto condemnation. The Taking shall be considered to have taken place as of the later of the date actual physical possession is taken by the condemnor, or the date on which the right to compensation and damages accrues under the law applicable to the Property.

"Temporary Taking" has the meaning set forth in Section 11.04.

"Threatened Release" means a substantial likelihood of a Release which requires action to prevent or mitigate damage to the soil, surface waters, groundwaters, land, stream sediments, surface or subsurface strata, ambient air or any other environmental medium comprising or surrounding the Property which may result from such Release.

"Total Condemnation" has the meaning set forth in Section 11.02.

"Transaction" has the meaning set forth in Section 14.01.

"Transaction Documents" means this Lease and the Guaranty.

"U.S. Publicly Traded Entity" means an entity whose securities are listed on a national securities exchange or quoted on an automated quotation system in the United States or a wholly-owned subsidiary of such an entity.

"USTs" means any one or combination of tanks and associated product piping systems used in connection with storage, dispensing and general use of Hazardous Materials.

EXHIBIT B

LEGAL DESCRIPTION AND STREET ADDRESS OF THE PROPERTY

Street Address: 1927 Cliff Davis Drive, Gillette, Wyoming 82716

Legal Description:

Lot 2B, of the Resubdivision of Lot 2 in the Silverado Addition, an Addition to the City of Gillette, Campbell County, Wyoming.

EXHIBIT C
AUTHORIZATION AGREEMENT – PRE-ARRANGED PAYMENTS

KeyBank Real Estate Capital

11501 Outlook Street, Suite 300
Overland Park, KS 66211
Toll-Free: 888-979-1200

Direct: 913-317-4100

Fax: 877-379-1625



AUTO DRAFT AUTHORIZATION FORM

Client Information

Property Information

Contract Information

Contract #:

Payment Due Date:

The undersigned hereby authorizes STORE Capital Corporation, by its Servicer, to make electronic debit entries for payments and any necessary adjustments involving these entries in the account identified below and authorizes STORE Capital Corporation, by its Servicer, to accept such entries and make any necessary adjustments. Undersigned also authorizes STORE Capital Corporation, or its Servicer, to impose customary returned item processing fees. It is agreed that these entries will be made under the Rules of the National Automated Clearing House Association. You will receive advance notification if the payment amount

changes in the future due to a contemplated payment change. This authorization will remain in effect until written notice of termination is delivered to STORE Capital Corporation, or its Servicer, in a timely manner so as to afford STORE Capital Corporation, or its Servicer, an opportunity to act thereon. In no event shall such termination be effective as to entries processed prior to receipt of such notice.

If the payment due date falls on a weekend or holiday, the payment will draft on the succeeding business day.

Account Information

☐ **Change to an existing Auto Draft**

☐ **New Request**

Bank Name: _____
Transit Routing #: _____
Account #: _____ Confirm Account #: _____
Bank Account Title: _____
Account Type: ☐ Checking ☐ Savings
ACH Draft Start Date: _____
Client Email: _____
Client Phone #: _____
Date Form Completed: _____
Signature of Authorizing Party: _____

ABC Corporation
123 Main Street
Anyplace, NJ 07000

1234
000000000000

PAY TO THE
ORDER OF

\$

DOLLARS

ANYTOWN BANK
Anytown, MD 20000

For

⑆ ⑆ 234 56 789 ⑆ 000 ⑆ 234 56 789 ⑆ ⑆ 234

Routing
Number

Account
Number

EXHIBIT D
STATE-SPECIFIC PROVISIONS

None.

**APPLEBEE'S RESTAURANTS
FRANCHISEE LEASE RIDER**

This Lease Rider (this "Rider") is executed as of the 30th day of August, 2019 by and between **STORE MASTER FUNDING II, LLC**, as landlord ("Landlord") and **AB GILLETTE WY LLC**, as tenant ("Franchisee"), as a Rider to that certain lease for the premises located at 1927 Cliff Davis Drive, Gillette, Wyoming (the "Premises") dated as of the date hereof (the "Lease"). This Rider is hereby incorporated into, and made a part of the Lease.

WHEREAS, Franchisee has executed or intends to execute a Franchise Agreement (the "**Franchise Agreement**") with Applebee's Franchisor LLC, a Delaware limited liability company (along with any successor franchisor of Applebee's restaurants, "**Franchisor**") for the operation of an Applebee's restaurant ("**Restaurant**") at the Premises, and as a requirement thereof, the Lease must include the provisions contained in this Rider; and

WHEREAS, Landlord and Franchisee agree that the terms contained herein shall supersede any terms to the contrary set forth in the Lease;

NOW THEREFORE, in consideration of mutual covenants set forth herein, the execution and delivery of the Lease, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Franchisee hereby agree as follows:

1. The effectiveness of the Lease is contingent upon Franchisor's approval of the Premises, the form of the Lease, and Franchisee's ability to obtain a liquor license for the Premises.
2. The Premises may be used, in addition to any other uses permitted under the Lease, for the operation of an Applebee's Restaurant, with the sale and service of alcoholic beverages for on premises consumption, and ancillary carry-out food service. Franchisee may operate Applebee's Restaurants at any other location without Landlord's approval.
3. Franchisor, its personnel or agents, for a period of up to thirty (30) days after the expiration or sooner termination of the Lease or the Franchise Agreement, may enter the Premises for itself or on behalf of Franchisee to de-identify the Premises as a Restaurant, which may include the removal of signs, decor and materials displaying any marks, designs or logos owned by Franchisor or its affiliates, provided Franchisor shall bear the expense of repairing any and all damage to the Premises as a result thereof.
4. If Franchisee has an obligation to continuously operate its business at the Premises, Franchisee may cease operating for up to sixty (60) days, from time to time, to perform repairs, enhancements or renovations, as required by the Franchise Agreement.
5. Notwithstanding any provision herein to the contrary, Franchisee shall have the absolute right, whether or not the Franchisee is in default under the Lease, upon ten (10) days prior written notice to Landlord, to sublet, assign or otherwise transfer its interest in the Lease to Franchisor or Franchisor's affiliate, to any entity with which Franchisor may merge or consolidate, or to any person or entity which is an authorized franchisee of Franchisor operating a minimum of five (5) restaurants (each, a "**Permitted Assignee**"), without Landlord's consent.

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Following such an assignment, a Permitted Assignee also may sublet, assign or otherwise transfer its interest in the Lease to another Permitted Assignee without the consent of Landlord. There will be no fee or expense charged in connection with such transfer.

6. Landlord and Franchisee acknowledge and agree that a Permitted Assignee will assume all of Franchisee's obligations under the Lease arising as a result of events, acts or omissions occurring from and after the date of assignment. In the event that Franchisee is in default of its obligations under the Lease as of the effective date of the assignment to a Permitted Assignee: a) the Permitted Assignee shall be obligated to cure such default, but only to the extent such default accrued not more than thirty (30) days prior to the date Franchisor received notice of such default from Landlord; and b) Landlord may pursue, or continue to pursue, a claim for damages under the Lease against Franchisee, but will have no rights to terminate the lease or to disturb the quiet possession of the Leased Premises by the Permitted Assignee.

7. The Lease contains provisions addressing: a) the allocation of responsibility for the presence of hazardous materials within the Premises (and the larger property of which the Premises is a part, if any ("**Shopping Center**")); and b) to the extent the Premises is part of a Shopping Center with common areas, the Landlord's responsibility for compliance with the Americans With Disabilities Act of 1990, as amended, within the common areas.

8. Landlord hereby represents and warrants that it holds fee simple title to the Premises and has all requisite right, power and authority to lease the Premises to Franchisee. Landlord hereby agrees to obtain a non-disturbance agreement for the benefit of Franchisee: (a) from the holder of any mortgage/ deed of trust as of the date of the Lease; and (b) as a condition to Franchisee's subordination to any mortgage/deed of trust granted after the date of the Lease.

9. In the event the Premises is part of a Shopping Center, Landlord agrees not to construct or change any improvements or landscaping in any manner which would impair the visibility of or access to the Premises, or the amount of parking available for use by Franchisee.

10. Copies of all notices required or permitted by the Lease shall also be sent to Franchisor at 450 N. Brand Boulevard, 7th Floor, Glendale, California 91203, Attn: General Counsel, or such other address as Franchisor may locate its Restaurant Support Center, at the same time notice is provided to Franchisee. Franchisor shall have the right, but not the obligation, upon giving written notice to Franchisee and Landlord, to cure any breach of the Lease.

11. The parties acknowledge that Franchisor is an intended third party beneficiary of this Rider and has the right to enforce the terms of this Rider as if it was a party hereto.

12. In the event of any conflict between this Rider and the Lease, the terms of this Rider shall control, and the Lease may not be modified or amended in any manner inconsistent with the terms of this Rider.

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