

SECOND AMENDMENT TO LEASE AGREEMENT

THIS SECOND AMENDMENT TO LEASE AGREEMENT (this “**Amendment**”) is made and entered into as of the ____ day of October 2020 (the “**Effective Date**”), by and between the CITY OF CORAL GABLES, a municipal corporation existing under the laws of the State of Florida (“**Landlord**”), and Robert Maguire (“**Tenant**”).

WITNESSETH:

WHEREAS, Landlord and Tenant have entered into several Lease Agreements since 2003 which include the current August 30, 2015 Lease Agreement (the “**Lease**”) for the lease of certain premises located at 2001 Granada Blvd., Coral Gables, Florida, 33134 (collectively, the “**Premises**”) which are more particularly described in the Lease; and

WHEREAS, the Tenant has been an exemplary tenant since 2003 complying with the provisions of the Lease, making rent payments on-time, and the Landlord does not have any evidence of Tenant rent default in its records; and

WHEREAS, due to Covid-19 pandemic health crisis (the “**COVID-19 crisis**”) the Governor of the State of Florida, and the Mayor of Miami -Dade County by Executive Orders, declared a State of Emergency for the State of Florida and Miami-Dade County directing the temporary closure or reduced operation of certain businesses including restaurants and golf courses; and

WHEREAS, the COVID-19 crisis emergency orders also included “safer-at-home” mandates designed to protect high risk population, specifically senior citizens who are considered by the Centers for Disease Controls and Prevention (the “**CDC**”) to have an increased risk of contracting the COVID-19 virus; and

WHEREAS, since 2003, a significant amount of the Tenant’s restaurant clientele have been senior citizens who, due to the COVID-19 crisis, are not frequenting the restaurant as they did prior to the crisis but rather following CDC recommendations to stay at home and limit their interactions with others; and

WHEREAS, as a result of the COVID-19 crisis and subsequent emergency orders, the Tenant experienced significant business interruption and unprecedented financial losses causing Landlord and Tenant to enter into a First Amendment to Lease for Rent Deferment (the “**Amendment**”) on June 22, 2020; and

WHEREAS, the Tenant’s continued financial losses during the COVID-19 crisis have prevented the Tenant from complying with the terms set forth in the Amendment; and

WHEREAS, the Landlord understands that availing itself of legal remedies pursuant to the Lease and choosing to evict the Tenant would result in an empty restaurant space that is unlikely to be re-rented during the COVID-19 crisis; and

WHEREAS, Tenant acknowledges that it is currently in default under the Lease for failure to pay Rent (as defined in the Lease) due on the first of month for the months of April, May, July,

August, September, and October 2020, in accordance with Section IV of the Lease in the total amount (includes sales tax and common area expenses) of \$20,280.26 (the “**Deferred Rent**”); and

WHEREAS, Tenant has requested an additional rent deferment and reduction plan and Landlord has agreed to accept for the Tenant to pay Rent and Deferred Rent, as more particularly set forth herein.

NOW, THEREFORE, for and in consideration of the mutual premises, and for Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, paid by the parties hereto to one another, the receipt and sufficiency of which are acknowledged by the parties hereto, the parties for themselves and their successors and assigns hereto hereby covenant and agree as follows:

1. **Incorporation of Recitals.** The above recitals are true and correct and are incorporated herein as if set forth in full.
2. **Defined Terms.** All capitalized terms not defined in this Amendment shall have the same meanings as set forth in the Lease. All references in the Lease and herein to the term “**Lease**” shall mean the Lease as amended by this Amendment.
3. **Rent Payment.** Beginning with the Rent payment due on November 1, 2020, and continuing through and including the Rent payment due on August 1, 2021, Tenant agrees to pay Rent to Landlord in monthly installments as set forth below:

Payment Date	Rent Due	Maintenance & Insurance	Sales Tax	Total Rent Payment Due
November 1, 2020	\$1,000.00	\$184.24	\$76.98	\$1,261.22
December 1, 2020	\$1,000.00	\$184.24	\$76.98	\$1,261.22
January 1, 2021	\$1,000.00	\$184.24	\$76.98	\$1,261.22
February 1, 2021	\$1,000.00	\$184.24	\$76.98	\$1,261.22
March 1, 2021	\$1,000.00	\$184.24	\$76.98	\$1,261.22
April 1, 2021	\$1,000.00	\$184.24	\$76.98	\$1,261.22
May 1, 2021	\$1,000.00	\$184.24	\$76.98	\$1,261.22
June 1, 2021	\$1,000.00	\$184.24	\$76.98	\$1,261.22
July 1, 2021	\$1,000.00	\$184.24	\$76.98	\$1,261.22
August 1, 2021	\$1,000.00	\$184.24	\$76.98	\$1,261.22

Each payment to be made without any offset or deduction whatsoever, in lawful money of the United States of America, at Landlord’s address specified in the Lease, or elsewhere as designated from time to time by Landlord’s written notice to Tenant. Notwithstanding anything contained herein to the contrary, Landlord agrees to waive all late charges and fees associated with the Deferred Rent.

4. **Deferred Rent Payment.** Tenant agrees to pay the deferred rent (\$20,280.26) by the end of the Lease (August 31, 2021). Landlord will accept payments toward the deferred rent balance earlier than end the Lease term if the Tenant chooses to make those payments.

5. **Sales Tax Reports.** Tenant shall provide to Landlord copies of the monthly sales tax returns submitted by Tenant to the Florida Department of Revenue (Sales Tax Reports) March 2019 - September 2020. Tenant also agrees to provide monthly sales tax returns to the Landlord by the 15th day of the following calendar month for the months of October 2020 - August 2021.

6. **Default.** Tenant acknowledges that it is currently in default under the Lease and will remain in default under the Lease until the outstanding balance of Deferred Rent is paid in full. In the event that Tenant fails to timely pay to Landlord any amounts due under the Lease or as required herein, Landlord shall have the right, at its option, to exercise any of the remedies available to Landlord under the Lease, or at law or equity, including the right to declare the Premises and the buildings and improvements situated thereon, to have reverted to the possession of the Landlord, whereupon Tenant shall immediately and voluntarily vacate the Premises and Tenant shall continue to be liable for the Deferred Rent together with any Rent or other amounts due under the Lease.

6. **COVID-19.** As additional consideration for Landlord entering into this Amendment, Tenant will retain reasonably detailed records of any operations and business activity conducted at Tenant's premises, any losses suffered by Tenant as a result of the pandemic, mitigating measures, and any efforts made to obtain any available local and federal assistance ("Assistance") for which Tenant may qualify that provides funds for rent payments, including, without limitation emergency funds through governmental or other assistance related to the COVID-19 Public Health Emergency; and, Tenant agrees to promptly share such records and information with Landlord within three (3) business days after Landlord's request. Tenant shall use reasonable efforts to apply for and pursue any Assistance available to Tenant and shall notify Landlord immediately in writing of the details of any such Assistance received. At Landlord's option, Landlord may require that following Tenant's receipt of any funds from any such Assistance, Tenant will pay to Landlord within ten (10) business days of Landlord's request therefore, any amount allocated or allocable to Rent and Landlord shall apply such amounts against the Deferred Rent. Tenant agrees that it shall not be entitled to make any claim for rent abatement or any claim for actual or constructive eviction (or on account of casualty, interruption of services or otherwise) associated or resulting from COVID-19 or any other governmental action, orders, rules or regulation in connection therewith.

7. **Ratification.** Except as modified by this Amendment, all of the terms, covenants and conditions of the Lease are confirmed and approved and shall remain in full force and effect.

8. **Counterparts.** This Amendment may be executed in multiple counterparts, each of which shall constitute an original, but all of which shall constitute one document. This Amendment may be executed by each party upon a separate copy, and one or more execution pages may be detached from one copy of this Amendment and attached to another copy in order to form one or more counterparts. Signature pages exchanged by facsimile or electronic transmission shall be fully binding.

[Signature Pages Follow]

The parties below have caused this _____ Amendment to Lease Agreement to be executed under seal as of the date and year first above written.

WITNESSES

LANDLORD:

AS TO LANDLORD:

CITY OF CORAL GABLES,
a Florida municipal corporation

Print Name:
Address:

By: _____
Name: Peter J. Iglesias
Title: City Manager
Date: _____

Print Name:
Address:

Approved for Form and Legal Sufficiency:

By: _____
Name: Miriam Soler Ramos
Title: City Attorney
Date: _____

Attestation of Signatures:

By: _____
Name: Billy Y. Urquia
Title: City Clerk
Date: _____

[Signature Page Follows]

WITNESSES

TENANT:

AS TO TENANT:

Print Name:

Address:

By: Robert Maguire

Name: Robert Maguire

Title: Robert Maguire

Date: 11-16-20

Print Name:

Address: