

CASE NO. 84934

IN THE SUPREME COURT OF NEVADA

ROWEN SEIBEL AND GR BURGR, LLC,

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Elizabeth A. Brown
Clerk of Supreme Court

Appellants,

vs.

PHWLTV, LLC, AND GORDON RAMSAY,

Respondents,

District Court Case No. A-17-751759-B

APPENDIX TO APPELLANTS' OPENING BRIEF

VOLUME 7 OF 34

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APPENDIX OF EXHIBITS TO APPELLANTS' OPENING BRIEF

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CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ❖ KENNEDY and that on the 10th day of March, 2023, service of the foregoing was made by mandatory electronic service through the Nevada Supreme Court's electronic filing system and/or by email as agreed by the parties, and addressed to the following at their last known email address:

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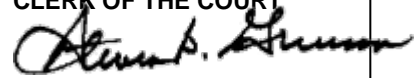
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TAB 28



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DISTRICT COURT

CLARK COUNTY, NEVADA

ROWEN SEIBEL, an individual and citizen of
New York, derivatively on behalf of Real Party
in Interest GR BURGR LLC, a Delaware limited
liability company,

Plaintiff,

v.

PHWLV, LLC, a Nevada limited liability
company; GORDON RAMSAY, an individual;
DOES I through X; ROE CORPORATIONS I
through X,

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

AND ALL RELATED MATTERS

Case No.: A-17-751759-B

Dept. No.: 15

**PLAINTIFF'S MOTION FOR PARTIAL
SUMMARY JUDGMENT CONCERNING (1)
THE PAYMENT OF THE LICENSE FEE
THROUGH MARCH 31, 2017, AND (2) THE
BREACH OF § 14.21 OF THE
DEVELOPMENT AGREEMENT**

Plaintiff Rowen Seibel, a member and manager of GR Burgr LLC ("GRB"), appearing
derivatively on its behalf, respectfully requests partial summary judgment on his breach of contract
claim against Defendants PHWLV, LLC ("PH") and Gordon Ramsay ("Ramsay"). Specifically,
Plaintiff seeks offensive partial summary judgment on the following claims:

- 1.** First Cause of Action, Specific Performance and Declaratory Relief: That PH
breached the contract by failing to pay the License Fee to GRB through March 31,
2017 (Compl. ¶¶ 70(d); and 93-99; 112(d));¹ and

¹ To be clear, Plaintiff alleges PH owes Plaintiff the License Fee for a period of time exceeding
March 31, 2017. This Motion, however, is limited to the payment of the License Fee through March
31, 2017.

1 **2.** The First Cause of Action and Additional Request for Relief: That PH and Ramsay
2 breached § 14.21 of the parties' contract by failing to enter an agreement with GRB to
3 operate another burger-centric or burger-themed restaurant. (Compl. ¶¶ 70(g); 71(f);
4 112(d) and (f).)

5 Offensive summary judgment is warranted because (i) PH has admitted it owes the License Fee to
6 GRB through at least March 31, 2017; and (ii) the Rebranded Restaurant, ie., Gordon Ramsay
7 Burger, is a burger-centric and burger themed restaurant and under §14.21 PH and Ramsay may not
8 operate a burger-centric or burger-themed restaurant without having entered into an agreement with
9 GRB, which they have not done.

10 DATED September 18, 2017.

11 CARBAJAL & MCNUTT, LLP

12 /s/ Dan McNutt

13 DANIEL R. MCNUTT (SBN 7815)
14 MATTHEW C. WOLF (SBN 10801)
15 625 South Eighth Street
16 Las Vegas, Nevada 89101
17 Attorneys for Plaintiff

18 **NOTICE OF HEARING**

19 PLEASE TAKE NOTICE that on the 24 day of OCTOBER, 2017, at
20 9:00A a.m. / p.m. o'clock, the Court will call for hearing the instant
21 **PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT CONCERNING (1) THE**
22 **PAYMENT OF THE LICENSE FEE THROUGH MARCH 31, 2017, AND (2) THE BREACH**
23 **OF § 14.21 OF THE DEVELOPMENT AGREEMENT.**

24 DATED September 18, 2017.

25 CARBAJAL & MCNUTT, LLP

/s/ Dan McNutt

 DANIEL R. MCNUTT (SBN 7815)
 MATTHEW C. WOLF (SBN 10801)
 625 South Eighth Street
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 Attorneys for Plaintiff

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION.**

3 This Court is familiar with the facts from Plaintiff's March 6, 2017 motion for preliminary
4 injunction and PH's April 7, 2017 motion to dismiss. "Summary judgment is appropriate where
5 there is no genuine issue as to any material fact and the moving party is entitled to judgment as a
6 matter of law."² Based upon the uncontested facts and the admission by PH, (i) PH breached the
7 contract by failing to pay the License Fee due to GRB through March 31, 2017 (Compl. ¶¶ 70(d),
8 93-99, 112(d); and (ii) PH and Ramsay breached § 14.21 of the parties' contract by operating
9 another burger-centric or burger-themed restaurant without entering an agreement with GRB or an
10 affiliate (Compl. ¶¶ 70(g); 71(f), 112(d) and (f)). Accordingly, this Court should grant partial
11 summary judgment as to these matters.

12 **II. LEGAL ARGUMENTS.**

13 **A. PH Admits that GRB is Entitled to the License Fee Through March 31, 2017.**

14 This Court should enter offensive summary judgment on Plaintiff's allegation in ¶ 68(d) of
15 the Complaint because there is no dispute GRB is entitled to receive and has not been paid the
16 License Fee through March 31, 2017. This conclusion is based upon the following three uncontested
17 facts:

- 18 **1. FACT #1: GRB IS CONTRACTUALLY ENTITLED TO THE LICENSE FEE FOR AS**
19 **LONG AS PH OPERATES THE RESTAURANT OR USES THE GENERAL GR**
20 **MATERIALS.** GRB entered an agreement (the "Agreement") in December 2012
21 with Ramsay and PHW Las Vegas, LLC ("PHW Las Vegas") to design, develop,
22 construct, and operate a restaurant in the Planet Hollywood hotel known as
23 "BURGR Gordon Ramsay" (the "Restaurant").³ Under the Agreement, PH
24 licensed certain property (the "General GR Materials" and "GRB Marks") from
25 GRB.⁴ In return, the Agreement obligates PH to pay a fee to GRB (the "License

² *Wood v. Safeway*, 121 Nev. 724, 121 P.3d 1026 (2005).

³ Ex. 1, the Agreement.

⁴ Ex. 1, the Agreement at Pg. 1, ¶ D; *see also Id.* at Pg. 3 (defining the "General GR Materials" as "the concept, system, menus and recipes designed for use in connection with the Restaurant that

Fee”).⁵ The Agreement was purportedly terminated on September 21, 2016.⁶ The Agreement states that upon termination, PH must continue paying the License Fee to GRB for as long as PH operates the Restaurant or uses the General GR Materials and GRB Marks.⁷ These provisions in the Agreement are unambiguous and therefore must be enforced as written.⁸

2. FACT #2: PH OPERATED THE RESTAURANT AND USED THE GENERAL GR MATERIALS UNTIL AT LEAST MARCH 31, 2017. In its March 17, 2017 Opposition to Plaintiff’s Motion for Preliminary Injunction (the “Injunction Opposition”), PH admitted it was still operating the Restaurant and using the General GR Materials and GRB Marks and planned to do so until at least March 31, 2017.⁹

are (a) created by or for Gordon Ramsay or GRB or containing trade secrets of Gordon Ramsay or GRB as of the Effective Date and (b) as are provided from time to time by Gordon Ramsay or GRB to PH for the purposes of this Agreement.”; and “GRB Marks” as “any trademark owned by GRB utilizing the “BURGR Gordon Ramsay” name or otherwise used to identify the Restaurant as set forth on Exhibit b and ancillary design, menu, uniforms and overall BURGR Gordon Ramsay concept.”)

⁵ Ex. 1, the Agreement at pg. 21, ¶ 8.1.1 (“[PH] shall pay to GRB a fee”) See also, pg. 23, ¶6.3 (“Subject to Section 6.1 and to the payment of the License Fee . . . each of Gordon Ramsay and GRB as necessary hereby grants to PH and its Affiliates a non-exclusive, non-transferable, limited, non-sublicensable right and license, during the Term (“License”), to use and employ GRB Marks and General GR Materials solely on and in connection with the operation of the Restaurant in the Restaurant Premises . . .”)

⁶ Ex. 2, Termination Letter. Plaintiff contends in this litigation that the termination was invalid.

⁷ Ex. 1, the Agreement at Pg. 13, § 4.3.1 (Section 4.3 of the Agreement survives termination of the Agreement); see also *Id.* at Pgs. 13-14, § 4.3.2(a) (“[D]uring the applicable post-termination period during which PH is operating the Restaurant, PH shall continue to be obligated to pay GRB all amounts due GRB hereunder that accrue during such period in accordance with the terms of this Agreement as if this Agreement had not been terminated[.]”); see also *Id.* at Pg. 14, § 4.3.2(e) (PH cannot “use the Restaurant’s food and beverage menus or recipes developed by GRB and/or Gordon Ramsay or use any of the GRB Marks or General GR Materials.”); *Id.* at Pg. 14, § 4.3.3(b) (PH has no right or interest in the General GR Materials).

⁸ *Kaldi v. Farmers Ins. Exch.*, 117 Nev. 273, 278, 21 P.3d 16, 20 (2001); see also *Fed. Ins. Co. v. Coast Converters*, 130 Nev. Adv. Op. 95, 339 P.3d 1281, 1284 (2014) (the interpretation of unambiguous contracts is a question of law).

⁹ Ex. 3, Ex. B to PH’s Inj. Opp’n, T. Bowen March 17, 2017 Decl. ¶ 5 (claiming that in January 2017, PH “told counsel for GRUS, the only suitable member of GRB, that additional time was needed [to wind up PH’s operation of the Restaurant] and that [PH] would complete the [windup] process as expeditiously as possible, by or before March 31, 2017.”); see also PH’s Inj. Opp’n 15:6-7 (“Planet Hollywood reasonably proceeded to work diligently to complete the rebranding process by or before March 31, 2017.”)

1 **3. FACT #3: PH HAS NOT PAID THE LICENSE FEE TO GRB THROUGH MARCH 31,**
2 **2017.** In the Injunction Opposition, PH admitted it has not paid the License Fee
3 to GRB through March 31, 2017, but rather that it has “accrued the License Fee
4 for their use during the wind up period. Planet Hollywood is ready, willing, and
5 able to place those funds in escrow pending resolution of this action.”¹⁰ There is
6 no provision in the Agreement that permits such withholding of the Licensee Fee.

7 It also should be noted that although it has refused to pay the License Fee to GRB following
8 the termination of the Agreement in September 2016, PH has continued to pay 50% of the License
9 Fee directly to GRUS, as it also admits in its Injunction Opposition.¹¹ Pursuant to its contractual
10 obligations under the Agreement, PH should be required to disburse the remainder of the License Fee
11 to its rightful owner (*i.e.*, GRB) so GRB can disburse it to Plaintiff.

12 **B. “Gordon Ramsay Burger” is a “burger themed” or “burger-centric” Restaurant**
13 **and PH and Ramsay Breached § 14.21 of the Agreement by Failing to Enter an**
14 **Agreement with GRB.**

15 This Court also should grant summary judgment on Plaintiff’s allegation that PH and Ramsay
16 breached § 14.21 of the Agreement. (Compl. ¶¶ 62(d); 68(h); 69(f).) This conclusion is based upon
17 the following two uncontested facts:

18 **1. FACT #1: § 14.21 OF THE AGREEMENT PROHIBITS PH AND RAMSAY FROM**
19 **OPERATING A BURGER-CENTRIC OR BURGER-THEMED RESTAURANT WITHOUT**
20 **ENTERING AN AGREEMENT WITH GRB OR AN AFFILIATE.** Section 14.21 of the
21 Agreement reads as follows: “If PH elects to pursue any venture similar to the
22 Restaurant (i.e., any venture generally in the nature of a burger centric or burger
23 themed restaurant), GRB shall, or shall cause an Affiliate to, execute a
24 development, operation and license agreement generally on the same terms and
25 conditions as this Agreement, subject only to revisions agreed to by the parties,

¹⁰ *Id.* 8:12-14 (internal citation omitted).

¹¹ *Id.* 18:3-15 (claiming that “[a]t or around March 8, 2016, GRUS requested that its share of the License Fee be paid to GRUS directly” and PH “acted in accordance with [this] instruction”) It should be noted Plaintiff contends the payment of part of the License Fee to GRUS was improper. (Compl. ¶¶ 57; 68(e).)

including revisions as are necessary to reflect the differences in such things as location, Project Costs, Initial Capital Investment, Operating Expenses and the potential for Gross Restaurant Sales between the Restaurant and such other venture and any resulting Section 8.1 threshold adjustments.” (emphasis added).¹²

2. FACT #2: PH AND RAMSAY ARE OPERATING A BURGER-CENTRIC OR BURGER-THEMED RESTAURANT WITHOUT HAVING ENTERED AN AGREEMENT WITH GRB. In the Injunction Opposition, PH said it was in the process of rebranding the restaurant (the “Rebranded Restaurant”) and would complete that process on or before March 31, 2017.¹³ The Rebranded Restaurant is called “Gordon Ramsay Burger”.¹⁴ Simply stated, reasonable minds cannot dispute that this version of the Restaurant is, in fact, a “burger-centric” or “burger-themed restaurant.”¹⁵ The word “burger” is in the name of the restaurant. Additionally, when the Restaurant was titled BURGR Gordon Ramsay, the menu for the Restaurant had eleven burger choices.¹⁶ Ironically, the current version of the Gordon Ramsay Burger menu, as of May 2017, actually has 14 burger entries.¹⁷ Other than offering a hot dog, and bangers and mash, the only entrees offered at the Rebranded Restaurant are burgers.¹⁸ Based on these two facts, there is no dispute that Gordon Ramsay Burger is, in fact, a “burger themed” or “burger-centric” restaurant. Finally, as the declaration of Rowen Seibel makes clear, there

¹² Ex. 1, the Agreement at Pg. 34, ¶ 14.21.

¹³ PH’s Inj. Opp’n 7:12-24; 14:10-18; 15:6-14; 24:5-11; *see also* Ex. 3, Ex. B to PH’s Inj. Opp’n, T. Bowen March 17, 2017 Decl. ¶¶ 3-6 (in ¶ 5, Bowen said PH “would complete the [rebranding] process as expeditiously as possible, by or before March 31, 2017.”)

¹⁴ This “Rebranded Restaurant” is nothing more than a transparent attempt to continue to use the General GR Materials without paying the License Fee to GRB, as the “Rebranded Restaurant” is the same restaurant with only minimal superficial changes that Plaintiff will prove continue to use the General GR Materials. While the breach of the Agreement through the continued use of the General GR Material will be proven in discovery, the violation of Section 14.21 cannot be disputed.

¹⁵ Ex. 4, April 2017 Photographs of the Rebranded Restaurant.

¹⁶ Ex. 5, July 2013 Menu.

¹⁷ Ex. 6, September 2017 Menu.

¹⁸ Ex. 7, May 2017 Menu.

1 is no dispute that neither PH nor Ramsay has ever entered an agreement with
2 GRB concerning the Rebranded Restaurant.¹⁹ Nor is there a dispute that GRB has
3 not “caused” an affiliate to enter into an agreement concerning the Rebranded
4 Restaurant.²⁰

5 **3. FACT #3: Section 14.21 Survives the Alleged Termination of the Agreement.**

6 The parties dispute whether PH’s purported termination of the Agreement is valid. That
7 disputed issue, however, has no bearing on the continued applicability of §14.21. Section 4.3.1 of the
8 Agreement expressly provides that §14.21 survives termination. It states: “The provisions of this
9 Section 4.3 and Sections 2.3.2, 6.2, 6.6, the last sentence of Section 12.2.2 and Articles 13 and 14
10 (other than Section 14.16) shall survive any termination or expiration of this Agreement.”²¹ This clear
11 and unambiguous provision of the Agreement must be enforced as written.

12 Based upon the above facts, Plaintiff is entitled to offensive summary judgment on his
13 allegation that PH and Ramsay breached § 14.21 of the Agreement.

14 **III. CONCLUSION.**

15 *Based on these uncontested facts and the admissions of PH*, this Court should enter partial
16 summary judgment on Plaintiff’s allegations that (i) PH breached the Agreement by failing to pay the
17 License Fee to GRB through March 31, 2017 and PH should be compelled to disburse all License
18 Fees owed through to GRB through at least March 31, 2017 to be disbursed to Plaintiff; and (ii) PH
19 and Ramsay breached § 14.21 of the Agreement by operating a “burger themed” or “burger-centric”
20 restaurant without entering an agreement to operate such a restaurant with GRB or an affiliate.

21 DATED September 18, 2017.

22 CARBAJAL & MCNUTT, LLP

23 /s/ Dan McNutt

24 DANIEL R. MCNUTT (SBN 7815)
25 MATTHEW C. WOLF (SBN 10801)
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Las Vegas, Nevada 89101
Attorneys for Plaintiff

¹⁹ Ex. 8, Seibel Decl. ¶ 6.

²⁰ Ex. 8, Seibel Decl. ¶ 7.

²¹ Ex. 1, the Agreement at Pg. 13, §4.3. 1. (Emphasis Original.)

1 **CERTIFICATE OF MAILING**

2 I HEREBY CERTIFY that pursuant to Nev. R. Civ. P. 5(b) and EDCR 8.05 on September 18,
3 2017, I caused service of the foregoing **PLAINTIFF'S MOTION FOR PARTIAL SUMMARY**
4 **JUDGMENT CONCERNING (1) THE PAYMENT OF THE LICENSE FEE THROUGH**
5 **MARCH 31, 2017, AND (2) THE BREACH OF § 14.21 OF THE DEVELOPMENT**
6 **AGREEMENT** to be made by depositing a true and correct copy of same in the United States Mail,
7 postage fully prepaid, addressed to the following and/or via electronic mail through the Eighth
8 Judicial District Court's E-Filing system to the following at the e-mail address provided in the e-
9 service list:

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Exhibit 1

DEVELOPMENT, OPERATION AND LICENSE AGREEMENT
AMONG
GORDON RAMSAY,
GR BURGR, LLC
AND
PHW MANAGER, LLC ON BEHALF OF PHW LAS VEGAS, LLC
DBA PLANET HOLLYWOOD

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Exhibit A – Restaurant Premises

Exhibit B – GRB Marks

DEVELOPMENT, OPERATION AND LICENSE AGREEMENT

THIS DEVELOPMENT, OPERATION AND LICENSE AGREEMENT (the "Agreement") shall be deemed made, entered into and effective as of this 13th day of December, 2012 by and among **PHW Las Vegas, LLC dba Planet Hollywood** by its manager, **PHW Manager, LLC** having its principal place of business at 3667 Las Vegas Boulevard South, Las Vegas, Nevada 89109 ("**PH**"), **GR BURGR, LLC**, a Delaware limited liability company having a place of business located at 200 Central Park South, 19th Floor, New York, New York 10019 ("**GRB**") and to the limited extent specifically provided herein, Gordon Ramsay, an individual with an address at 1 Catherine Place London SW1E 6X United Kingdom.

RECITALS

A. PH owns or operates a hotel/casino resort complex located at 3667 Las Vegas Boulevard South, Las Vegas, Nevada 89109, currently known as Planet Hollywood ("**Hotel**"), which is depicted on **Exhibit A** attached to this Lease;

B. GRB has the exclusive rights to use and exploit the GRB Marks and General GR Materials and principals of GRB (i.e. Gordon Ramsay and Rowen Seibel) have certain qualifications, expertise and reputation in development and operation of first-class restaurants;

C. PH in consultation with GRB to the extent set forth herein, desires to design, develop, construct and operate a restaurant featuring primarily burger centric food and beverages known as "**BURGR Gordon Ramsay**" (collectively, the "Restaurant") in those certain premises within the Hotel more particularly shown on **Exhibit A** attached hereto (the "Restaurant Premises"); and

D. PH desires to obtain a license to use certain GRB Marks and General GR Materials from GRB and to retain GRB, Gordon Ramsay and/or his team to perform certain services and fulfill certain obligations with respect to consultation concerning the design, development, construction and operation of the Restaurant, and GRB desires to grant a license to use certain GRB Marks and General GR Materials to PH and GRB and Gordon Ramsay desires to be retained by PH to perform (and/or cause his team to perform) such services and fulfill such obligations, and the parties desire to enter into this Agreement to set forth their respective rights and obligations with respect thereto, all as more particularly set forth herein.

NOW THEREFORE, in consideration of the promises and the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree that the foregoing recitals are true and correct and further agree as follows:

1. DEFINITIONS

As used herein, the following terms have the meanings set forth or referenced below. Other terms may be defined in other Articles and Sections of this Agreement.

"Additional GR Restaurant Visits" has the meaning set forth in Section 7.2.

"Affiliate" means, with respect to a specified Person, any other Person who or which is directly or indirectly controlling, controlled by or under common control with the specified Person, or any member, stockholder or comparable principal of, the specified Person or such other Person. For purposes of this definition, "control", "controlling", "controlled" mean the right to exercise, directly or indirectly, at least

five percent (5%) of the voting power of the stockholders, members or owners and, with respect to any individual, partnership, trust or other entity or association, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled Person. Notwithstanding the foregoing, with respect to PH, the term "Affiliate" shall only include PHW Manager, LLC and PH's Parent and its direct and indirect controlled subsidiaries and shall not include any shareholder or director of PH's Parent or any Affiliate of any such shareholder or director of PH's Parent other than an Affiliate that is PH's Parent or its direct or indirect controlled subsidiaries. Additionally, Gordon Ramsay and Rowen Seibel shall not be deemed Affiliates of one another.

"Arbitration Support Action" has the meaning set forth in Section 14.10.3.

"Competing Concepts" has the meaning set forth in Section 2.3.1.

"Confidential Information" means, as to a party, information about that party and its Affiliates, including information such as business plans, strategies, costing information, prospects and locations, that (i) is furnished by or on behalf of the party to a Recipient or its Representatives, or (ii) otherwise becomes known to a Recipient or its Representatives as a result of the transactions contemplated hereby; provided, that, "Confidential Information" shall not include any information which the Recipient can clearly show (a) is or has become openly known to the public through no fault of the Recipient or its Representatives, (b) was lawfully obtained by the Recipient from a source other than the disclosing party or its Representatives, who the Recipient reasonably believes (after due inquiry) is not subject to any obligation of confidentiality or restriction on use or disclosure to the disclosing party or its Affiliates or any other Person or (c) was developed independently by the Recipient or its Affiliates.

"Dispute" has the meaning set forth in Section 13.1.

"Dispute Notice" has the meaning set forth in Section 13.1.

"Early Termination Payment" means an amount equal to fifty percent (50%) of the amount paid or payable to GRB pursuant to Section 8.1 for the six (6) complete months ended at the end of the calendar month immediately prior to the effective date of termination of this Agreement.

"Effective Date" means the later of the date of this Agreement and the date on which PH determines, in its sole discretion, that none of the GR Associates is an Unsuitable Person.

"Exchange Act" has the meaning set forth the definition of GR Change of Control.

"Exclusivity Provisions" has the meaning set forth in Section 2.3.1.

"Excusable Delay" has the meaning set forth in Section 12.3.

"Existing Restaurants" has the meaning set forth in Section 2.4.3.

"Fiscal Year" means (a) for the first Fiscal Year the period commencing on the Opening Date and ending on December 31 of the calendar year in which the Opening Date occurs and (b) each subsequent period of twelve months commencing on January 1 and ending on December 31 of any calendar year.

"GR Associates" has the meaning set forth in Section 2.2.

"GRB Marks" means any trademark owned by GRB utilizing the "BURGR Gordon Ramsay" name or otherwise used to identify the Restaurant as set forth on Exhibit B, and ancillary design, menu, uniforms and overall BURGR Gordon Ramsay concept.

"General GR Materials" means the concept, system, menus and recipes designed for use in connection with the Restaurant that are (a) created by or for Gordon Ramsay or GRB or containing trade secrets of Gordon Ramsay or GRB as of the Effective Date and (b) as are provided from time to time by Gordon Ramsay or GRB to PH for the purposes of this Agreement.

"GR Promotional Visits" has the meaning set forth in Section 7.1.

"Gross Restaurant Sales" means all receipts or revenues of the Restaurant from all sources of any kind (subject to the limitations set forth in this Agreement), including the sale of food and beverage, door charges, and room rental fees computed on an accrual basis in accordance with generally accepted accounting principles consistently applied by PH, excluding only (i) federal, state and local excise, sales, use or rent taxes collected from customers from receipts which are included in Gross Restaurant Sales, (ii) gratuities paid to the employees of the Restaurant (or paid to PH and paid by PH to such employees) by patrons with respect to functions which generate Gross Restaurant Sales, (iii) amounts collected by PH from patrons for the account of, and for direct payment to, unrelated third parties providing services specifically for a patron's function which generate Gross Restaurant Sales, such as flowers, music and entertainment, (iv) proceeds paid as a result of an insurable loss (unless paid for the loss or interruption of business and representing payment for damage for loss of income and profits of those Restaurant operations which are intended to generate Gross Restaurant Sales), (v) proceeds of condemnation and eminent domain awards, litigation awards and settlement payments, (vi) any proceeds or other economic benefits of any borrowings or financings of PH, (vii) any proceeds or other economic benefit from any sale, exchange or other disposition of all or any part of the PH or Restaurant, including any furniture, furnishings, decorations, and equipment, or any other similar items, (viii) funds provided by PH, (ix) payments made under any warranty or guaranty and (x) any other receipts or payments that are not standard or typical in the ordinary course of operating a restaurant or that are excluded by PH in a manner consistent with the determination of gross revenues of operations of PH and its Affiliates similar to the Restaurant. Gross Restaurant Sales shall be reduced by the amount of credit card fees and over-rings, refunds and credits given, paid or returned by PH in the course of obtaining Gross Restaurant Sales. In addition to receipts from transactions occurring at the Restaurant, Gross Restaurant Sales shall include, without limitation, all receipts for food or beverages delivered from the Restaurant in satisfaction of orders therefor received away from the Restaurant and receipts for food or beverages delivered away from the Restaurant in satisfaction of orders received at the Restaurant and receipts for food or beverages delivered away from the Restaurant in satisfaction of orders received away from the Restaurant but sold, transferred or solicited with reference to the Restaurant. Notwithstanding the foregoing, Gross Restaurant Sales shall include the menu price of all food and beverages offered on a complimentary basis by PH to its customers and, unless the promotion and alternative pricing was made with the prior written consent of GRB, Gross Restaurant Sales shall include the full menu price of all food and beverages provided on a discounted basis to its customers (except that employees of PH or its Affiliates shall be entitled to a twenty (20%) percent discount off the full menu price and such twenty (20%) percent discount amount shall not be included in Gross Restaurant Sales).

"Gross Retail Sales" means all receipts or revenues of the Restaurant from the sale of merchandise computed on an accrual basis in accordance with generally accepted accounting principles consistently applied by PH, excluding only (i) federal, state and local excise, sales, use or rent taxes collected from customers from receipts which are included in Gross Retail Sales, (ii) Gross Retail Sales shall be reduced by the amount of credit card fees and over-rings, refunds and credits given, paid or returned by PH in the course of obtaining Gross Retail Sales. In addition to receipts from transactions

occurring at the Restaurant, Gross Retail Sales shall include, without limitation, all receipts for merchandise delivered from the Restaurant in satisfaction of orders therefor received away from the Restaurant and receipts for merchandise delivered away from the Restaurant in satisfaction of orders received at the Restaurant and receipts for merchandise delivered away from the Restaurant in satisfaction of orders received away from the Restaurant but sold, transferred or solicited with reference to the Restaurant. Notwithstanding the foregoing, Gross Retail Sales shall include the everyday sales price of all merchandise offered on a complimentary basis by PH to its customers and, unless the promotion was made with the prior consent of GRB, shall include the full retail price of all merchandise provided on a discounted basis to its customers (except that employees of PH or its Affiliates shall be entitled to a twenty (20%) percent discount off the full everyday sales price and such twenty (20%) percent discount amount shall not be included in Gross Retail Sales).

"Ground Lease" has the meaning set forth in Section 14.18.

"GR Restaurant Visits" has the meaning set forth in Section 7.2.

"GR US Entities" has the meaning set forth in Section 10.2.5.

"Initial Term" has the meaning set forth in Section 4.1.

"License Fee" has the meaning set forth in Section 8.1.1.

"Menu Development Services" has the meaning set forth in has the meaning set forth in Section 3.4.1.

"Mortgages" has the meaning set forth in Section 14.18.

"Nevada Courts" has the meaning set forth in Section 14.10.3.

"Opening Date" has the meaning set forth in Section 4.1.

"Operating Expenses" means, for any period, (a) the actual expenses incurred during such period in operating the Restaurant in those categories listed on the Profit and Loss Statement for the Restaurant, in each case computed on an accrual basis in accordance with generally accepted accounting principles consistently applied by PH, plus (b) the License Fee for such period, plus (c) the actual expenses incurred by PH during such period for operation of the Restaurant for variable expenses not reflected on such Profit and Loss Statement (including outside hood cleaning, EVS, utilities, accounting, warehouse, receiving and maintenance services). All credits and rebates received from sponsors and/or vendors in connection with product or services used at the venue shall be a credit against Operating Expenses.

"Permanent Damage" means any damage by fire or other casualty to the PH or Restaurant (a) where the net insurance proceeds are not sufficient to restore and repair the damaged portion of the PH or Restaurant substantially to its condition and character just prior to the occurrence of such casualty or (b) where it is not reasonably practicable to restore and repair the PH or Restaurant due to restrictions under applicable Law or for other reasons beyond PH's reasonable control within three hundred sixty five (365) days from the damage, in each case as reasonably determined by PH.

"Person" means any individual, corporation, proprietorship, firm, partnership, limited partnership, limited liability company, trust, association or other entity, including any governmental authority.

"PH Marks and Materials" has the meaning set forth in Section 6.2.

"PH's Parent" means Caesars Entertainment Corporation, a corporation organized under the laws of Delaware of the United States, and its successors and assigns.

"Project Budget" has the meaning set forth in Section 3.2.2.

"Project Costs" means, all reasonable costs and expenses incurred by PH or its Affiliates prior to the Opening Date to accomplish the effective and efficient commencement of operations at the Restaurant on the Opening Date in accordance with the Project Budget and as set forth in this Agreement, including all hard and soft construction costs, the cost of all furniture, equipment and furnishings, inventories of food and beverages and other operating supplies acquired in preparation for the opening of the Restaurant, all expenses incurred by PH or any of its Affiliates in performing pre-opening services and other pre-opening functions, including expenses of business entertainment and reimbursable expenses (but excluding salary, compensation and benefits of the employees of PH or its Affiliates) and any related taxes, the cost of recruitment and related expenses for all employees of the Restaurant and the cost of pre-opening sales, marketing, advertising, promotion and publicity for the Restaurant, including all losses, expenses and reasonable attorneys' fees arising directly or indirectly from any dispute with any third party engaged to design, develop, construct or outfit the Restaurant solely.

"Recipient" has the meaning set forth in Section 14.17.1.

"Relative" means, with respect to any Person, such Person's mother, father, spouse, brother, sister and children.

"Representatives" means, with respect to any Person, such Person's employees, agents, independent contractors, representatives and Affiliates.

"Restaurant Development Services" has the meaning set forth in Section 3.2.1.

"Restaurant Venture" has the meaning set forth in Section 2.4.1.

"Rules" has the meaning set forth in Section 13.1.

"Senior Management Employee(s)" has the meaning set forth in Section 5.2.

"Substantial Damage" means any damage, other than a Permanent Damage, by fire or other casualty to the PH or Restaurant (a) that results in more than twenty percent (20%) of the area of the PH or Restaurant, as applicable, being rendered unusable, (b) where the estimated length of time required to restore PH or Restaurant, as applicable, substantially to its condition and character just prior to the occurrence of such casualty shall be in excess of one hundred eighty (180) days or (c) if the estimated cost of restoration and repair of the damage exceeds twenty percent (20%) of the then current replacement cost of the PH or Restaurant, as applicable, in each case as determined by PH in its reasonable discretion.

"Team Visits" has the meaning set forth in Section 7.2.

"Term" has the meaning set forth Section 4.1.

"Third-Party Claim" has the meaning set forth in Section 14.15.1.

"Training" has the meaning set forth in Section 5.1.2.

"Union Agreements" has the meaning set forth in Section 5.3.1.

"Unsuitable Person" is any Person (a) whose association with PH or its Affiliates could be anticipated to result in a disciplinary action relating to, or the loss of, inability to reinstate or failure to obtain, any registration, application or license or any other rights or entitlements held or required to be held by PH or any of its Affiliates under any United States, state, local or foreign laws, rules or regulations relating to gaming or the sale of alcohol, (b) whose association or relationship with PH or its Affiliates could be anticipated to violate any United States, state, local or foreign laws, rules or regulations relating to gaming or the sale of alcohol to which PH or its Affiliates are subject, (c) who is or might be engaged or about to be engaged in any activity which could adversely impact the business or reputation of PH or its Affiliates, or (d) who is required to be licensed, registered, qualified or found suitable under any United States, state, local or foreign laws, rules or regulations relating to gaming or the sale of alcohol under which PH or any of its Affiliates is licensed, registered, qualified or found suitable, and such Person is not or does not remain so licensed, registered, qualified or found suitable.

"USCIS" has the meaning set forth in Section 5.6.

2. APPOINTMENT; CONDITIONS; EXCLUSIVITY; CERTAIN RIGHTS.

2.1 Appointment. On the terms and subject to the conditions set forth in this Agreement, PH hereby appoints GRB and Gordon Ramsay and his team, and GRB and Gordon Ramsay and/or his team, as applicable, hereby agree, to perform those services and fulfill those obligations set forth herein as to be performed or fulfilled by GRB, Gordon Ramsay and/or his team, as applicable (collectively, the "Services"). In addition to the terms and conditions more particularly set forth in this Agreement, GRB and Gordon Ramsay each agrees to perform or cause to be performed the Services (a) in good faith and using sound business practice, due diligence and care, (b) using, at a minimum, the same degree of skill and attention GRB, Gordon Ramsay or their Affiliates, as the case may be, use in performing the same or similar services for its, his or their own accounts or the accounts of others (and in no event less than a reasonable degree of skill and attention), and (c) with sufficient resources and qualified personnel as are reasonably required to perform the Services in accordance with the standards set forth in this Agreement.

2.2 Conditions to Agreement. Notwithstanding anything to the contrary contained herein, the rights and obligations of each party under this Agreement (other than the obligations under Section 2.3, 2.4 and 9.1 and Article 14), is conditioned upon (which conditions may be waived by PH in its sole and absolute discretion): (a) submission by or on behalf of Gordon Ramsay and GRB to PH of all information requested by PH regarding Gordon Ramsay, GRB, their respective Affiliates and their respective directors, officers, employees, agents, representatives and other associates (collectively, the "GR Associates") to ensure that they are not an Unsuitable Person; and (b) PH being satisfied, in its sole discretion, that no GR Associate is an Unsuitable Person.

2.3 Exclusivity.

2.3.1 (i) Each of Gordon Ramsay and GRB covenants and agrees as to himself or itself that, at all times during the Term, each of Gordon Ramsay and GRB, respectively, will not and will cause its Affiliates not to, directly or indirectly, except as contemplated by this Agreement or any other Agreement with PH or any of its Affiliates, use, or permit or license or offer or agree to permit or license any other Person to use, any GR Mark, GRB Mark or General GR Materials within Clark County, Nevada in connection with the operation of a restaurant substantially similar to the Restaurant, including any Gordon Ramsay burger centric or burger themed or similar restaurant, including a "Fat Cow Burger" (all such substantially similar restaurants, "Competing Concepts"), excluding any operation for PH or its Affiliates; and (ii) Gordon Ramsay covenants and agrees that, at all times during the Term, Gordon Ramsay will not and will cause his Affiliates not to, directly or indirectly, except as contemplated by this Agreement or any other Agreement with PH or any of its Affiliates, engage in or become affiliated or

associated with, or offer or agree to become engaged in or affiliated or associated with, any activities, business or operations involving any Competing Concept which is located within Clark County, Nevada, including as an owner, investor, operator, director, officer, manager, agent, consultant, licensor or employee of any such Competing Concept (collectively, clauses (i) and (ii), the "Exclusivity Provisions"). For purposes of clarification, nothing in the definition of Competing Concepts shall be deemed to include Gordon Ramsay's current concepts "Fat Cow" or "Hell's Kitchen", so long as such concepts do not have Gordon Ramsay's name form part of the core branding of these concepts, i.e. is not used in its name or moniker.

2.3.2 If this Agreement is terminated by PH prior to the end of the Term originally stated herein, and either Gordon Ramsay or GRB is in default or breach of this Agreement at the time of such termination, the Exclusivity Provisions shall continue for a period of eighteen (18) months following such termination.

2.3.3 Notwithstanding the foregoing, owning the securities of any company if the securities of such company are listed for trading on a national stock exchange or traded in the over-the-counter market and the combined Gordon Ramsay, GRB and their respective Affiliates' holdings therein represent less than five percent (5%) of the total number of shares or principal amount of other securities of such company outstanding shall not be deemed violative of this Section 2.3.

2.3.4 Notwithstanding the foregoing: (i) nothing in this Section 2.3 shall preclude (a) the marketing or sale of any products branded with any GRB Marks or any marketing or promotion in Clark County, Nevada of any products or services of Gordon Ramsay or GRB that are sold outside of this Agreement (and not in contravention of the Exclusivity Provisions) or (b) the marketing within Clark County, Nevada of other Gordon Ramsay or GRB (or Affiliates of either) restaurants and (ii) PH shall have no rights with respect to the sale of any products (other than any food products used in the Restaurant) branded with any GRB Marks or provision of any services under the GRB Marks, other than as specifically set forth in this Agreement.

2.4 Rights of First Refusal.

2.4.1 Gordon Ramsay covenants and agrees that, at all times during the Term, he will not and will cause his Affiliates not to, directly or indirectly, engage in or become affiliated or associated with, or offer or agree to become engaged in or affiliated or associated with, any activities, business or operations involving any restaurant or bar (including any lounge, nightclub, ultra lounge or similar operation), including as an owner, investor, operator, director, officer, manager, agent, consultant, licensor or employee of any such restaurant or bar, if such restaurant or bar is or is to be (a) located within Clark County (a "Restaurant Venture") or (b) located within a casino or other gaming facility within a twenty-five (25) mile radius of any existing or publicly announced hotel or gaming facility owned or operated (or to be owned or operated) by PH or any of its Affiliates outside of Clark County (also a "Restaurant Venture"), except after compliance with this Section 2.4.

2.4.2 Before Gordon Ramsay or any of his Affiliates engages in or becomes affiliated or associated with, or offers or agrees to become engaged in or affiliated or associated with, any Restaurant Venture, Gordon Ramsay shall provide PH with an offer (available to PH and/or its Affiliates), in writing, to participate in such Restaurant Venture, which offer shall set forth reasonable detail regarding the proposed Restaurant Venture. If PH (or its designated Affiliate) indicates in writing within fifteen (15) days after receipt of such offer its interest in considering such opportunity, Gordon Ramsay and/or his team, as applicable, shall or shall cause its applicable Affiliates to enter into exclusive discussions, negotiations and due diligence with PH (or its designated Affiliate) for the succeeding thirty (30) days to determine if mutually agreeable terms of participation in the Restaurant Venture can be

reached. During such period, Gordon Ramsay and/or his team shall or shall cause its applicable Affiliates to provide PH (or its designated Affiliate) with all reasonable supporting or other documents it may reasonably request with respect to the Restaurant Venture.

2.4.3 In addition, before Gordon Ramsay or GRB, or any of their respective Affiliates engages in or becomes affiliated or associated with, or offers or agrees to become engaged in or affiliated or associated with, any other restaurant using the GRB Marks in any location ("BURGR Gordon Ramsay Restaurant"), Gordon Ramsay and GRB shall provide PH with an offer (available to PH and/or its Affiliates), in writing, to participate in such BURGR Gordon Ramsay Restaurant, which offer shall set forth reasonable detail regarding the proposed BURGR Gordon Ramsay Restaurant. If PH (or its designated Affiliate) indicates in writing within fifteen (15) days after receipt of such offer its interest in considering such opportunity, Gordon Ramsay and/or GRB, as applicable, shall or shall cause its applicable Affiliates to enter into exclusive discussions, negotiations and due diligence with PH (or its designated Affiliate) for the succeeding thirty (30) days to determine if mutually agreeable terms of participation in the BURGR Gordon Ramsay Restaurant can be reached. During such period, Gordon Ramsay and/or GRB shall or shall cause its applicable Affiliates to provide PH (or its designated Affiliate) with all reasonable supporting or other documents it may reasonably request with respect to the BURGR Gordon Ramsay Restaurant. As used in all of Section 2.4, the word "exclusive" does not apply to the owner or operator of the facility where the Restaurant Venture or the BURGR Gordon Ramsay Restaurant is to be located or to Gordon Ramsay's or GRB's (or their respective Affiliates') investors, potential investors, investor advisors, investment bankers or the like with whom each of Gordon Ramsay or GRB (or their Affiliates) may have discussions, negotiations or be carrying out due diligence on the Restaurant Venture or the BURGR Gordon Ramsay Restaurant. In addition, Section 2.4 shall not apply to any deal that Gordon Ramsay (or his Affiliates) is licensing to a third party or any deal that GRB is licensing the GRB Marks to a third party.

2.4.4 For the avoidance of doubt, the following shall not be considered to be violative of the provisions of this Section 2.4: (i) the continued operation of Gordon Ramsay at the London West Hollywood (in Los Angeles, California), Gordon Ramsay at the London (in New York, New York), maze by Gordon Ramsay at the London (in New York, New York), Gordon Ramsay at Powerscourt (in Dublin, Ireland), Gordon Ramsay au Triannon (in Paris, France), La Veranda (in Paris, France), Gordon Ramsay at Castel Monastero (in Siena, Italy), Gordon Ramsay at Forte Village (in Sardinia, Italy), maze (in Doha, Qatar), Verre (in Deira, Dubai), Gordon Ramsay at the Conrad Tokyo (in Tokyo, Japan), Cerise (in Tokyo, Japan), Laurier Gordon Ramsay (in Montreal Canadaor), or maze (in Melbourne, Australia) (the "Existing Restaurants") or (ii) the opening of another location of any Existing Restaurant (i.e., with the same name, concept and menu) within a twenty-five (25) mile radius of its current location other than within a hotel, casino or similar establishment. The opening of another location of any Existing Restaurant (A) within a twenty-five (25) mile radius of its current location within a hotel, casino or similar establishment or (B) outside a twenty-five (25) mile radius of its current location shall be subject to the provisions of this Section 2.4 if it otherwise falls under the definition of "Restaurant Venture".

2.5 PH Exclusivity. PH covenants and agrees that, at all times during the Term, PH will not and will cause its Affiliates not to, directly or indirectly, except as contemplated by this Agreement or any other Agreement with Gordon Ramsay, GRB or any of their respective Affiliates open a substantially similar burger centric, burger themed, pub, gastro tavern or similar restaurant within the hotel portion of PH; provided, that this Section 2.5 shall not apply to the operation of any restaurant anywhere in the hotel portion of PH where, as of the date of this Agreement, there is a gastro pub; provided further, that such restaurant may not be redesigned, rebranded or otherwise modified to be more similar to the Restaurant than it is at the date of this Agreement. For the avoidance of doubt, this Section 2.5 shall not apply to (i) any other type of bar, café or tavern or (ii) any casino or other gaming area or any adjacent facility or structure (including the Miracle Mile Shops).

3. RESTAURANT LOCATION, DESIGN, DEVELOPMENT AND OPERATION.

3.1 General. The Restaurant shall be comprised of that approximate square footage indicated on Exhibit A attached hereto. The parties acknowledge that with the consent of the parties, the design of the Restaurant and the Restaurant Premises may change following the execution of this Agreement as a result of conditions of construction, budgetary constraints or other reasons provided that the approximate square footage and placement of the Restaurant within the Restaurant Premises as designed and constructed shall not be materially different than that which is depicted on Exhibit A. At all times during the Term and thereafter PH shall retain all right, title and interest in and to the Restaurant Premises.

3.2 Initial Design and Construction.

3.2.1 Planning. Subject to all of the terms and conditions more particularly set forth herein, PH shall, after consultation with GRB, be solely responsible for the initial design, development, construction and outfitting of the Restaurant, including all furniture, fixtures, equipment, inventory and supplies (the "Restaurant Development Services"); provided, however, that PH, after consulting with GRB and considering all reasonable recommendations from GRB, shall have final approval with respect to all aspects of same but shall at all times act reasonably. PH shall appoint an individual or individuals, who may be changed from time to time by PH, acting in its sole and absolute discretion, to act as PH' liaison with GRB in the design, development, construction and outfitting of the Restaurant. Restaurant Development Services, and meetings with respect to same, shall take place in Las Vegas, Nevada.

3.2.2 Budgeting. PH shall be solely responsible for all proposed budgets for the Project Costs (each, a "Project Budget"), but PH shall afford GRB the reasonable opportunity to review each such Project Budget and make reasonable recommendation on same, based on the experience of GRB, prior to PH's adoption and implementation of any such Project Budget. After giving consideration to all reasonable recommendations made by GRB regarding the Project Budget, PH shall establish, control, and amend from time to time as necessary, all in PH's sole discretion, the Project Budget for the initial design, development, construction, and outfitting of the Restaurant, except to the extent the same contain any GRB Marks.

3.2.3 Implementation of Initial Design and Construction. PH shall be solely responsible for hiring, retaining and authorizing the performance of services by any and all design, development, construction and other professionals engaged in the initial design, development, construction and outfitting of the Restaurant. At all times during the Term and thereafter, PH shall retain all right, title and interest in and to the furniture, fixtures, equipment, inventory, supplies and other tangible and, except as otherwise provided herein, intangible assets used or held for use in connection with the Restaurant, except to the extent the same contain any GRB Marks.

3.2.4 Costs of Initial Design and Construction. The current Project Budget is \$5,100,000, to be provided solely by PH (the "Initial Capital Investment").

3.3 Subsequent Refurbishment, Redesign and Reconstruction of the Restaurant. If, after the Opening Date, PH determines that the Restaurant requires any additional capital expenditures, PH is solely responsible for any capital expenditures.

3.4 Menu Development.

3.4.1 Menu Development. Gordon Ramsay or members of his team shall develop the initial food and beverage menus of the Restaurant, and the recipes for same, and thereafter, Gordon

Ramsay or members of his team shall revise the food and beverage menus of the Restaurant, and the recipes for same (the "Menu Development Services"). PH shall have the reasonable opportunity to review any food and beverage menus prior to their implementation and make reasonable recommendations to same based upon the proposed costs and PH's experience with the Las Vegas, Nevada fine-dining industry. After consulting with and giving full and proper consideration to all reasonable advice and reasonable recommendations from Gordon Ramsay, PH shall establish the pricing of any food and beverage menus, in its sole and absolute but reasonable discretion. Menu Development Services, and meetings with respect to same, shall take place by conference call at times and on dates mutually agreed to by GRB, Gordon Ramsay and PH.

3.4.2 Menu Standards. GRB agrees (a) to use commercially reasonable efforts to ensure that the food and beverage menus of the Restaurant, and the recipes for the same, shall be of a nature and cost that is consistent with the nature and cost menu offerings of casual up-scale restaurants in Las Vegas, Nevada and (b) the food menu of the Restaurant shall feature primarily specialty burger dishes.

3.5 General Operation of the Restaurant. Unless expressly provided herein to the contrary and subject to the terms of this Agreement, PH shall be solely responsible for:

3.5.1 managing the operations, business, finances and Employees of the Restaurant on a day-to-day basis;

3.5.2 maintaining the Restaurant;

3.5.3 developing and enforcing employment and training procedures, marketing plans, pricing policies and quality standards of the Restaurant; and

3.5.4 supervising the use of the food and beverage menus and recipes developed by Gordon Ramsay or his team pursuant to the terms of Section 3.2.

3.6 Merchandise.

3.6.1 Upon PH's request, GRB shall use commercially reasonable efforts to (a) introduce PH to such authorized manufacturers and suppliers of Gordon Ramsay merchandise for the purpose of purchasing and selling such merchandise in the Restaurant and (b) facilitate such services, provided that all such sales shall be included within Gross Restaurant Sales. Unless otherwise agreed by GRB, all merchandise sold in the Restaurant shall be purchased from an authorized manufacturer or supplier of Gordon Ramsay, provided that GRB shall consent to other manufacturers and suppliers sourced by PH so long as the merchandise is of at least equal quality to that provided by Gordon Ramsay's manufacturer or supplier and the price is equal to or less than the price charged by Gordon Ramsay's manufacturer or supplier.

3.6.2 No operating supplies bearing, based on or containing GRB Marks or General GR Materials, including all menus, wine lists, business cards, tableware, uniforms and napkins, shall be produced or used in connection with the Restaurant without prior written approval of Gordon Ramsay (or a member of his team) or GRB, as the case may be, which shall not be unreasonably withheld, conditioned or delayed. Gordon Ramsay (or a member of his team) or GRB, as the case may be, shall, give notice of approval or rejection (with reasons) within ten (10) days following PH's written request for approval.

3.6.3 In the event that PH wishes to produce merchandise of any kind bearing, based on or containing the GRB Marks or General GR Materials or otherwise relating to the Restaurant it shall provide full details of the same to Gordon Ramsay and GRB and the parties shall negotiate in relation thereto and enter into a separate agreement in connection therewith in the event that an agreement is reached.

3.7 Meetings and Personal Appearances. Whenever scheduling any meeting or personal appearance contemplated by this Agreement, PH shall make commercially reasonable efforts to take into account the other then existing commitments of Gordon Ramsay and Rowen Seibel and give Gordon Ramsay and Rowen Seibel reasonable prior notice as far in advance as is possible, of the contemplated date, time and place of each scheduled meeting or appearance. If advised of a conflict, PH shall make commercially reasonable efforts to reschedule such meeting or appearance to a date and time closest to the initially proposed scheduled appearance date, it being understood that all such scheduling shall be made by PH based upon the best interest of the Restaurant and Gordon Ramsay and Rowen Seibel shall endeavor to make commercially reasonable efforts to meet the appearance schedule proposed by PH subject to previously scheduled commitments.

3.8 Additional Obligations. Each of PH, Gordon Ramsay and GRB warrants and undertakes to the other parties that it shall:

3.8.1 at all times (a) fully comply with all laws, statutes, ordinances, regulations, promulgations and mandates applicable to its obligations hereunder and the operation of the Restaurant and (b) maintain all applicable business licenses and other licenses and permits relating to its business operations or its obligations hereunder, and in each case any failure to do so shall constitute a breach of this Agreement; and

3.8.2 perform its duties hereunder with reasonable care and skill and shall cultivate and maintain good relations with customers of the Restaurant in accordance with sound commercial principles.

4. TERM.

4.1 Term. The initial term of this Agreement shall commence on the Effective Date and shall expire on that date that is ten (10) years from the date on which the Restaurant first opens to the general public for business (the "Opening Date"), unless extended by the parties or unless earlier terminated pursuant to the terms hereof (the "Initial Term"). Upon the mutual agreement of PH and GRB, the term of this Agreement shall be extended for one additional five (5) year term (together with the Initial Term, the "Term"), which shall be on all of the same terms and conditions as contained herein. Thereafter, there shall be no additional extensions of the term of this Agreement.

4.2 Termination.

4.2.1 For Convenience. At any time following the third (3rd) anniversary of the Opening Date, this Agreement may be terminated by PH upon six (6) month's written notice to GRB and Gordon Ramsay specifying the date of termination.

4.2.2 Death, Disability or Non-Involvement of Gordon Ramsay. This Agreement may be terminated by PH upon written notice to GRB and Gordon Ramsay having immediate effect if (a) Gordon Ramsay dies, (b) Gordon Ramsay suffers a disability, including any physical or mental condition, which impairs the ability of Gordon Ramsay to render, in a timely manner, substantially all of Gordon

Ramsay's covenants, agreements and obligations hereunder for a period of four (4) consecutive months or six (6) months in any twelve (12) month period, or (c) Gordon Ramsay fails on two consecutive occasions to appear in Las Vegas, Nevada to perform all of the GR Promotional Events and GR Restaurant Visits as required pursuant to the terms of this Agreement (provided that he was given ample notice of such and afforded an opportunity to perform and does not so perform on other mutually acceptable dates subject to Gordon Ramsay being prevented from attending due to force majeure or sickness).

4.2.3 Sales Performance. At any time during the sixty (60) days following the third (3rd) anniversary of the Opening Date and the sixty (60) days following the seventh anniversary of the Opening Date, this Agreement may be terminated by PH by written notice to GRB specifying the effective date of termination if (a) in the case of termination following the third (3rd) anniversary of the Opening Date, the Gross Restaurant Sales for the twelve months prior to such anniversary are not at least Eleven Million Five Hundred Thousand Dollars (\$11,500,000.00) or (b) in the case of termination following the seventh (7th) anniversary of the Opening Date, the Gross Restaurant Sales for the twelve (12) months prior to such anniversary are not at least Twelve Million Five Hundred Dollars (\$12,500,000.00).

4.2.4 Breach of Standards. This Agreement may be terminated by PH upon written notice to GRB and Gordon Ramsay having immediate effect if, following a material breach of Section 11.1 of this Agreement, PH sends written notice of such breach to GRB and Gordon Ramsay and such material breach is not cured within thirty (30) days after receipt of such notice.

4.2.5 Unsuitability. This Agreement may be terminated by PH upon written notice to GRB and Gordon Ramsay having immediate effect as contemplated by Section 11.2.

4.2.6 Condemnation and Casualty. This Agreement may be terminated by PH upon written notice to GRB and Gordon Ramsay having immediate effect as contemplated by Article 12.

4.2.7 Material Breach.

(a) This Agreement may be terminated by PH upon written notice to GRB and Gordon Ramsay having immediate effect if, following a material breach of this Agreement by Gordon Ramsay or GRB, PH sends written notice of such material breach to GRB and Gordon Ramsay specifying in reasonable detail, the facts and circumstances underlying the claimed breach (including the provision(s) of the Agreement claimed to have been breached) and Gordon Ramsay or GRB, as applicable, fails to cure such material breach within thirty (30) days after receipt of such notice; provided that if GRB or Gordon Ramsay shall have taken steps reasonably anticipated to cure such breach within such thirty (30) day period, PH shall not be permitted to terminate the Agreement unless such cure is not completed within a reasonable time thereafter.

(b) This Agreement may be terminated by GRB upon written notice to PH having immediate effect if, following a material breach of this Agreement by PH, GRB sends written notice of such material breach to PH specifying in reasonable detail, the facts and circumstances underlying the claimed breach (including the provision(s) of the Agreement claimed to have been breached) and PH fails to cure such material breach within thirty (30) days after receipt of such notice for non-monetary breaches by PH (provided that if PH shall have taken steps reasonable anticipated to cure such breach

within such thirty (30) day period, PH shall not be permitted to terminate the Agreement unless such cure is not completed within a reasonable time thereafter) and within five (5) days after written notice is given to PH for monetary breaches by PH (it being understood that PH' failure to pay any amount disputed in good faith shall not entitle Gordon Ramsay to terminate this Agreement).

4.2.8 Bankruptcy, etc.

(a) This Agreement may be terminated by PH upon written notice to GRB and Gordon Ramsay having immediate effect if Gordon Ramsay or GRB (i) becomes insolvent or admits in writing its inability to pay its debts as they become due, (ii) has instituted against it a proceeding seeking a judgment of insolvency, suspension of payment or bankruptcy, or a petition is presented against it for its winding up or liquidation, in each case that is not dismissed within sixty (60) days, (iii) institutes a proceeding seeking a judgment of insolvency, suspension of payment or bankruptcy, or files a petition for its winding up or liquidation, (iv) makes a general assignment for the benefit of its creditors, (v) seeks or becomes subject to the appointment of a receiver over all or substantially all of its assets, or (vi) any analogous procedure or step is taken in any jurisdiction.

(b) This Agreement may be terminated by GRB upon written notice to PH having immediate effect if PH (i) becomes insolvent or admits in writing its inability to pay its debts as they become due, (ii) has instituted against it a proceeding seeking a judgment of insolvency, suspension of payment or bankruptcy, or a petition is presented against it for its winding up or liquidation, in each case that is not dismissed within sixty (60) days, (iii) institutes a proceeding seeking a judgment of insolvency, suspension of payment or bankruptcy, or files a petition for its winding up or liquidation, (iv) makes a general assignment for the benefit of its creditors, (v) seeks or becomes subject to the appointment of a receiver over all or substantially all of its assets, or (vi) any analogous procedure or step is taken in any jurisdiction.

4.3 Effect of Expiration or Termination.

4.3.1 Termination of Obligations; Survival. Upon expiration or termination of this Agreement, there shall be no liability or obligation on the part of any party with respect to this Agreement, other than that such termination or expiration shall not (a) relieve any party of any liabilities resulting from any breach hereof by such party on or prior to the date of such termination or expiration, (b) relieve any party of any payment obligation arising prior to the date of such termination or expiration, or (c) affect any rights arising as a result of such breach or termination or expiration. The provisions of this Section 4.3 and Sections 2.3.2, 6.2, 6.6, the last sentence of Section 12.2.2 and Articles 13 and 14 (other than Section 14.16) shall survive any termination or expiration of this Agreement.

4.3.2 Certain Rights of PH Upon Expiration or Termination. Upon expiration or termination of this Agreement:

(a) PH shall cease operation of the Restaurant and its use of any GRB Marks and GR Materials; provided, however, that (i) in the event of an

early termination of this Agreement, other than pursuant to Section 4.2.2, PH shall be entitled to operate the Restaurant and use the License for one hundred twenty (120) days from such termination to orderly and properly wind-up operations of the Restaurant; and (ii) in the event of an early termination of this Agreement pursuant to Section 4.2.2, PH shall be entitled to operate the Restaurant and use the License for up to nine (9) months from such termination to orderly and properly reconcept or wind-up operations of the Restaurant; provided that in the event of a termination pursuant to clause (i) or (ii) during the applicable post-termination period during which PH is operating the Restaurant, PH shall continue to be obligated to pay GRB all amounts due GRB hereunder that accrue during such period in accordance with the terms of this Agreement as if this Agreement had not been terminated;

(b) PH shall retain all right, title and interest in and to the Restaurant Premises except for the GRB Marks and General GR Materials and any personal property containing any GRB Marks;

(c) PH shall retain all right, title and interest in and to the furniture, fixtures, equipment, inventory, supplies and other tangible and intangible assets used or held for use in connection with the Restaurant, except as expressly provided in Section 4.3.2;

(d) PH shall retain all right, title and interest in and to PH Marks and Materials; and

(e) PH shall have the right, but not the obligation, immediately or at any time after such expiration or termination, to operate a restaurant in the Restaurant Premises; provided, however, such restaurant shall not use the Restaurant's food and beverage menus or recipes developed by GRB and/or Gordon Ramsay or use any of the GRB Marks or General GR Materials.

4.3.3 Certain Rights of Gordon Ramsay/GRB Upon Expiration or Termination. Upon expiration or termination of this Agreement:

(a) In the case of termination by PH pursuant to Section 4.2.1, PH shall pay to GRB the Early Termination Payment as a lump-sum payment within five (5) business days after the effective date of such termination; and

(b) Subject to Section 4.3.2(a), Gordon Ramsay and/or GRB shall retain all right, title and interest in and to the GRB Marks and General GR Materials and all right title and interest in and to the Restaurant's food and beverage menus and recipes developed by GRB and/or Gordon Ramsay.

5. RESTAURANT EMPLOYEES.

5.1 General Requirements.

5.1.1 Employees. Subject to the terms of this Article 5, after consulting with and giving full and proper consideration to all reasonable recommendations of GRB, PH shall be responsible for, and shall have final approval with respect to, hiring, training, managing, evaluating, promoting,

disciplining and firing all kitchen and front-of-house management and staff of the Restaurant (collectively, the "Employees"). Notwithstanding anything herein to the contrary, all Employees, including all Senior Management Employees, shall be employees of PH and shall be expressly subject to (a) PH' human resources policies and procedures and hiring requirements in existence as of the Effective Date and as modified by PH from time to time during the Term, and (b) the compliance committee requirements applicable to PH and its Affiliates, as more particularly set forth in Section 11.2 hereof.

5.1.2 Qualified Training by PH. At PH's option, exercisable in its sole discretion, all applicants for Employee front-of-house positions that require personal contact with guests of the Restaurant, as well as all cook, pantry, pastry, bakery and other skilled kitchen positions, shall be required to undergo specialized training (the "Training") and, upon the culmination of such specialized training, pass a test reasonably related to the Training in order to be qualified as an Employee. The Training shall be conducted by PH on the Employee's own time and at the Employee's own expense. At PH's option, exercisable in its sole discretion, the Training and related test may only be required of individuals who are employees of PH at the time of such individual's application for a position as an Employee.

5.2 Senior Management Employees. GRB shall advise PH as to those individuals whom it recommends to be hired for the following positions at the Restaurant and shall, or shall cause his team to, use commercially reasonable efforts to give such advice to be provided within the time frames set forth below.

(a) One full-time equivalent Executive Chef (no later than sixty (60) days before the Opening Date);

(b) One full-time equivalent General Manager (no later than forty-five (45) days before the Opening Date);

(c) Two full-time equivalent Assistant Chefs (no later than thirty (30) days before the Opening Date); and

(d) Two full-time equivalent Assistant Managers (no later than twenty (20) days before the Opening Date).

The initial and any successor Executive Chef, General Manager, Assistant Chefs and Assistant Managers shall be referred to collectively, as the "Senior Management Employees" and individually, a "Senior Management Employee", with the understanding that said designation is for the purposes of reference for this document only and shall not be deemed to create a requirement or expectation of any particular level of compensation or benefits that may otherwise be available to individuals employed by PH having such employment designation. Subject to the terms of this Article 5, after consulting with and giving full and proper consideration to all reasonable recommendations of GRB, PH shall be responsible for, and shall have final approval with respect to, hiring, training, managing, evaluating, promoting, disciplining and firing Senior Management Employees (and any additional or replacement Senior Management Employees as reasonably required by PH from time to time). The parties acknowledge and agree that PH is under no obligation to hire any individual recommended pursuant to this Section 5.2.

5.3 Union Agreements.

5.3.1 Agreements. Each of Gordon Ramsay and GRB acknowledges and agrees that all of PH's agreements, covenants and obligations and all of Gordon Ramsay's and/or GRB's rights and agreements contained herein are subject to the provisions of any and all collective bargaining agreements and related union agreements to which PH or any of its Affiliates is or may become a party and that are or

may be applicable to the Employees (as the same may be amended or supplemented from time to time, collectively, the "Union Agreements"). Each of Gordon Ramsay and GRB agrees that all of their agreements, covenants and obligations hereunder, including those obligations to train certain Employees, shall be undertaken in such manner as to be in accordance with and to assist and cooperate with PH's obligation to fulfill its obligations contained in the Union Agreements; provided, that PH now and hereafter shall advise Gordon Ramsay and GRB of the obligations contained in said Union Agreements that are applicable to Employees. Notwithstanding the foregoing, in no event shall Gordon Ramsay or GRB be deemed a party to any such Union Agreement whether by reason of this Agreement, the performance of its obligations hereunder or otherwise.

5.3.2 Amendments. Each of Gordon Ramsay and GRB acknowledges and agrees that from time to time during the Term, PH may negotiate and enter into amendments and supplements to the Union Agreements. Each Union Agreement, as so amended or supplemented, may include those provisions agreed to by and between the applicable union and PH, in its sole discretion, including provisions for (a) notifying then-existing employees of PH in the bargaining units represented by the applicable union of employment opportunities in the Restaurant, (b) preferences in training opportunities for such then-existing employees, (c) preferences in hiring of such then-existing employees, if such then-existing employees are properly qualified, and (d) other provisions concerning matters addressed in this Section 5.3.

5.3.3 Conflicts. In the event any agreement, covenant, obligation or right of a party contained herein is, or at any time during the Term shall be, prohibited pursuant to the terms of any Union Agreement, the applicable party shall be relieved of such agreement, covenant, obligation or right, with no continuing or accruing liabilities of any kind, and such agreement, covenant, obligation or right shall be deemed to be separate and severable from the other portions of this Agreement, and the other portions shall be given full force and effect. In the event any agreement, covenant, obligation or right under this Agreement is severed from this Agreement pursuant to this Section 5.3.3, the parties shall thereafter cooperate in good faith to modify this Agreement to provide the parties with continuing agreements, covenants, obligations and rights that are consistent with the requirements and obligations of this Agreement (including the economic provisions contained herein), such Union Agreement and applicable law, rules and regulations.

5.4 Training Support.

5.4.1 Pre-Opening Training. For the period prior to the Opening Date, GRB shall advise PH as to the training GRB recommends be provided to the Senior Management Employees, including working methods, culinary style, culinary philosophy, standard of service, marketing techniques and customer service. After consulting with and giving full and proper consideration to all reasonable recommendations of GRB and/or its team, PH shall be responsible for, and shall have final approval with respect to, training Senior Management Employees and other Employees.

5.4.2 Refresher Training. As and if reasonably requested by PH from time to time during the Term, GRB shall advise PH as to the training GRB recommends be provided for refresher training of such appropriate kitchen and front-of-house Employees as reasonably selected by PH, including training with respect to any new food and beverage menus and recipes therefore developed and implemented from time to time during the Term. After consulting with and giving full and proper consideration to all reasonable recommendations of GRB and/or its team, PH shall be responsible for, and shall have final approval with respect to such refresher training.

5.5 Evaluations. As reasonably requested by PH from time to time during the Term but not more than twice in any one (1) year during the Term, GRB shall be entitled to review, approve and make

recommendations with respect to the annual evaluations of the Senior Management Employees as conducted by PH, and shall participate in such review, approval and recommendation process in the event PH's request coincides with any GR Promotional Visit, GR Restaurant Visit or Additional GR Restaurant Visit and Gordon Ramsay's schedule otherwise permits; provided, however, PH shall have final approval with respect to all aspects of same. Such evaluation services, and meetings with respect to same, shall take place in Las Vegas, Nevada after reasonable advance notice.

5.6 Employment Authorization. PH shall be solely responsible for applying for, and shall be solely responsible for all costs and expenses related to obtaining (with the understanding that said costs shall be deemed to be an Operating Expense of the Restaurant), any work authorizations from the United States Citizenship and Immigration Services, a Bureau of the United States Department of Homeland Security ("USCIS"), that may be required in order for the Senior Management Employees to be employed by PH at the Restaurant; provided, however, each such Employee shall be required to cooperate with PH with respect to applying for such work authorization and shall be required to diligently provide to PH or directly to USCIS, as applicable, all information such Employee is required to provide in support of the application for such work authorization; provided further, however, GRB expressly acknowledges that, in the event that PH is unable to reasonably obtain such work authorization for any Employee, the offer of employment for such Employee shall be revoked.

6. LICENSE.

6.1 Marks and Materials. Each of Gordon Ramsay and GRB represents and warrants to PH that Gordon Ramsay and/or GRB is and at all times during the Term will be the owner of any GRB Marks and General GR Materials as contemplated by this Agreement and possesses and at all times during the Term will possess the necessary right to license the GRB Marks and General GR Materials to PH pursuant to this Agreement, free and clear of any restrictions except those imposed by this Agreement. Notwithstanding the foregoing, the parties acknowledge that the GRB Marks have not yet been registered and that Gordon Ramsay's Affiliate is proceeding to register the GRB Marks and license the same to GRB.

6.2 Ownership.

6.2.1 By GRB or Gordon Ramsay. PH acknowledges and agrees that GRB is the owner of the GRB Marks and the General GR Materials and any modification, adaptation, improvement or derivative of or to the foregoing. PH acknowledges and agrees and that all use of the GRB Marks and General GR Materials (including any goodwill generated by such use) shall inure to the benefit of GRB and, except for the limited License set forth in this Agreement PH shall not have or obtain any right, title or interest in or to any of the GRB Marks or General GR Materials. Notwithstanding the foregoing, each of Gordon Ramsay and GRB acknowledges and agrees that PH shall own all copyright and other rights, title and interest in and to all materials described in Section 6.2.2(ii) below, save to the extent that such materials use or contain any or all of the GRB Marks or General GR Materials and, in addition to the rights granted by copyright, PH may use such materials and the GRB Marks or General GR Materials in promotional pieces listing, indicating or depicting people or entities that have or have had an appearance, relationship or other connection to PH or any of its Affiliates. If and to the extent that PH has or comes to have any right, title or interest in any intellectually property rights in the GRB Marks or General GR Materials or any modification, adaptation, improvement or derivative of or to the foregoing, PH hereby assigns to Gordon Ramsay and GRB all such intellectual property rights.

6.2.2 By PH. Each of Gordon Ramsay and GRB acknowledges and agrees that PH shall own: (i) any works, trade names, trademarks, designs, trade dress, service names and service marks, and registrations thereof and applications for registration thereof, and all works of authorship, programs,

techniques, processes, formulas, developmental or experimental work, work-in-process, methods or trade secrets and all other materials, work product, intangible assets or other intellectual property rights created or developed by PH for use in association with the Restaurant except for the GRB Marks or General GR Materials and except for any modification, adaptation, improvement or derivative thereto or as otherwise provided in Section 6.2.1; and (ii) any materials that that are created by any party pursuant to this Agreement in which the GRB Marks or the General GR Materials are embodied or incorporated, including all photographic or video images, all promotional materials produced in accordance with the provisions of Article 7 hereof and all marketing materials produced in accordance with the provisions of Article 9 hereof (clauses (i), and (ii), collectively, the "PH Marks and Materials"). Each of Gordon Ramsay and GRB acknowledges and agree that neither Gordon Ramsay nor GRB shall have or obtain any right, title or interest in or to any of the PH Marks and Materials. Notwithstanding the foregoing, except as expressly provided in this Agreement, PH shall not acquire any rights in the GRB Marks or General GR Materials included or embedded in any of the PH Marks and Materials.

6.3 Intellectual Property License. Subject to section 6.1 and to the payment of the License Fee and compliance with the terms of this Agreement, each of Gordon Ramsay and GRB as necessary hereby grants to PH and its Affiliates a non-exclusive, non-transferable, limited, non-sublicensable right and license, during the Term (the "License"), to use and employ GRB Marks and the General GR Materials solely on and in connection with the operation of the Restaurant in the Restaurant Premises and the marketing and promotion thereof, and in connection with the marketing, promotion and retail sale of certain products in the Restaurant Premises as is contemplated in Section 3.4 under the terms and conditions set forth in this Agreement. Each of Gordon Ramsay and GRB shall, at PH's reasonable request and PH's sole but reasonable cost and expense, provide information or documents possessed by Gordon Ramsay or GRB, and execute documents, that are necessary for PH and its Affiliates to exercise their rights under the License. Each of Gordon Ramsay and GRB represents and warrants to PH that, if Gordon Ramsay dies during the Term and this Agreement is not terminated pursuant to Section 4.2.3, the License shall continue in full force and effect during the remainder of the Term.

6.4 Quality Control.

6.4.1 Quality Control Standards. PH acknowledges that the GRB Marks have secondary meaning in the eyes of purchasers and the public, that the GRB Marks enjoy an excellent reputation and that the provision of restaurant services of poor quality under the GRB Marks could adversely affect such reputation. PH agrees that it shall use its commercially reasonable efforts to maintain the reputation of the GRB Marks and further agrees that its use of the GRB Marks shall be of a quality consistent with the quality used in connection with PH's use of its own trademarks.

6.4.2 Inspection of Operations. During the Term, Gordon Ramsay and GRB shall each have the right, upon reasonable notice and during regular business hours, to inspect PH's operations that touch or concern the Restaurant operation, including inspection of the Restaurant Premises, to ensure that the quality standards for the GRB Marks are being maintained.

6.4.3 Notices. PH shall place appropriate trademark and copyright notices and symbols on any marketing, advertising, promotional or other materials incorporating the GRB Marks and General GR Materials and at the Restaurant Premises, with information to be included in such notices and symbols to be obtained from Gordon Ramsay or GRB. Moreover, PH shall use commercially reasonable efforts to include any specific trademark and copyright notices relating to the GRB Marks as are requested by GRB.

6.5 Gordon Ramsay's Rights in Marks.

6.5.1 Protection. Gordon Ramsay and/or GRB shall, at their own cost and expense, maintain in full force and effect the GRB Marks and General GR Materials that are registered. Nothing in this Section 6.5.1 implies an obligation to register any GRB Marks or General GR Materials that are not registered as of the date hereof; provided, that if GRB registers any GRB Marks or General GR Materials after the date hereof, this Section 6.5.1 shall apply to such GRB Marks and General GR Materials from and after such registration; provided further that Gordon Ramsay or GRB shall apply to register "BURGR Gordon Ramsay" in the United States Patent & Trademark Office.

6.5.2 No Registration. PH shall not, either during or after the Term of this Agreement: (a) use or register any mark which is identical or confusingly similar to any of the GRB Marks or any variation thereof, in any jurisdiction; or (b) register any domain name consisting of or including any of the GRB Marks or any variation thereof.

6.5.3 No Challenges. PH acknowledges the validity of the GRB Marks, and agrees that at no time either during or after the Term of this Agreement will it directly or indirectly challenge or assist others to challenge the validity or strength of the GRB Marks or GRB's ownership thereof, provided that nothing herein shall preclude PH from complying with any lawful subpoena or other legal requirement.

6.6 Indemnification of PH. GRB covenants and agrees to defend, indemnify and save and hold harmless PH and its Affiliates and their respective stockholders, directors, officers, agents and employees from and against all claims, losses, expenses, obligations, liabilities, liens, demands, charges, litigation and judgments, including court costs and reasonable attorneys' fees, arising directly or indirectly from any claim by any third Person (including the GR US Entity or any direct or indirect owner of the GR US Entity) alleging that the use permitted hereunder by PH or its Affiliates of the GRB Marks or General GR Materials violates, infringes or otherwise conflicts with any intellectual property or other rights of a third Person. PH shall notify GRB of any such claim and GRB may and, upon PH's request, shall, at its sole cost and expense, defend such claim or cause such claim to be defended by counsel designated by GRB and reasonably acceptable to PH. In addition, and without limiting the indemnification obligations of GRB as set forth in the foregoing sentence, Gordon Ramsay covenants and agrees to cause the GR US Entity to not bring any such claim arising directly or indirectly from this Agreement, including the operation of the Restaurant and use of the License, against PH or any of its Affiliates.

6.7 Infringement by Third Persons. GRB shall make good faith efforts to monitor for possible infringement of the GRB Marks or General GR Materials and shall promptly inform PH in writing if it becomes aware of any actual or potential infringement of the GRB Marks or General GR Materials. GRB shall use and shall cause its Affiliates to use all commercially reasonable efforts to prosecute infringement of PH's right to use GRB Marks or General GR Materials granted hereunder. If GRB shall not prosecute in a reasonable and timely manner an infringement of the GRB Marks or General GR Materials or shall cease such prosecution once commenced, then PH may, but shall not be required to, prosecute such infringement. In such event, PH shall be entitled to retain any amounts recovered and the out-of-pocket costs of prosecution shall be treated as an Operating Expense of the Restaurant. The parties shall provide to each other such information and assistance as may reasonably be requested in the course of any prosecution of infringements as contemplated by this Section 6.7.

7. PROMOTION AND OPERATIONAL PRESENCE.

7.1 Initial Promotion. During the period prior to the Opening Date, Gordon Ramsay shall, as reasonably required by PH, but otherwise in accordance with the terms of this Section 7.1, engage in promotional activities for the Restaurant, which may include commercial photography of Gordon Ramsay, and Gordon Ramsay or other representative of GRB will, as reasonably requested by PH, review

and provide advice and recommendations with respect to the Restaurant's operational, efficiency and profitability issues, the food and beverage menu standards and implementation, and Employee training, evaluations and customer service, media interviews and such other promotional events as PH may reasonably require. Prior to the Opening Date, PH may request Gordon Ramsay to, and Gordon Ramsay shall use commercially reasonable efforts to, make one visit to Las Vegas, Nevada, taking into consideration the scheduling requirements described in Section 3.5. Commencing on the Opening Date, Gordon Ramsay shall be in Las Vegas, Nevada at the Restaurant for a reasonable period of time (not to be less than twenty-four (24) consecutive hours). All visits by Gordon Ramsay under this Section 7.1 are referred to as the "GR Promotional Visits".

7.2 Subsequent Restaurant Visits. From and after the Opening Date, (a) Gordon Ramsay shall visit and attend to the Restaurant at least three (3) times per year of the Term (collectively, the "GR Restaurant Visits"), and two of the three visits shall be for a minimum of twenty-four (24) consecutive hours while one of the three visits shall be for a minimum of 48 consecutive hours, as reasonably scheduled by Gordon Ramsay, taking into consideration the scheduling requirements described in Section 3.5 and any scheduling requirements of Gordon Ramsay under any other agreements with PH or any of its Affiliates (it being understood that any GR Restaurant Visit that occurs concurrently with any such other required visit shall be for a minimum of thirty-six (36) consecutive hours and that Gordon Ramsay shall devote adequate time to meet his obligations under this Agreement and any other agreement), (b) PH may request that Gordon Ramsay make additional visits to the Restaurant (collectively, the "Additional GR Restaurant Visits") and (c) upon the request of PH, Gordon Ramsay's team or representatives of GRB shall visit and attend the Restaurant up to four (4) times per year of the Term (collectively, the "Team Visits"). During the GR Restaurant Visits and Additional GR Restaurant Visits, Gordon Ramsay shall engage in promotional activities for the Restaurant, which may include commercial photography of Gordon Ramsay, as reasonably requested by PH and approved in advance by Gordon Ramsay (such approval not to be unreasonably withheld, conditioned or delayed). During the GR Restaurant Visits, Additional GR Restaurant Visits and the Team Visits, Gordon Ramsay shall, or, if applicable, shall cause his team or GRB to, review and provide advice and recommendations with respect to the Restaurant's operational, efficiency and profitability issues, the food and beverage menu standards and implementation, and Employee training, evaluations and customer service, media interviews and such other promotional events as PH may reasonably require.

7.3 Travel Expenses.

7.3.1 For each GR Promotional Visit and GR Restaurant Visit, PH or its travel desk shall purchase for Gordon Ramsay's use first class round trip airfare between any airport designated from time to time by Gordon Ramsay and Las Vegas McCarran International Airport. The parties shall each endeavor to ensure all such airline tickets are booked not less than thirty (30) calendar days in advance of the departure date. If a GR Promotional Visit or GR Restaurant Visit is cancelled for any reason, PH shall be entitled to the entire refund or credit, if any, resulting from the cancellation of the airline ticket associated with same. Subject to availability, PH may at its option instead provide (at no cost to Gordon Ramsay) the use of a private jet for round trip travel for Gordon Ramsay to Las Vegas, Nevada. For each Additional GR Restaurant Visit, PH or its travel desk shall purchase for Gordon Ramsay's use first class round trip airfare between any airport designated by Gordon Ramsay and Las Vegas McCarran International Airport. During the duration of each GR Promotional Visit and GR Restaurant Visit and subject to availability, PH shall provide for Gordon Ramsay's use, at no cost or expense to Gordon Ramsay, a total of three (3) deluxe rooms at the Hotel or the property owned by an Affiliate of PH known as PH (room and all applicable taxes); provided, however, Gordon Ramsay shall be responsible for all incidental room charges (subject to a thirty percent (30%) discount) and other expenses incurred during the occupancy of such rooms. Any cost or expense to PH or its Affiliates associated with the provision of

travel accommodations and room charges under this Section 7.3.1 shall be for the account of PH, and shall not be a Project Cost or an Operating Expense of the Restaurant.

7.3.2 For each Team Visit, PH and GRB shall agree, acting reasonably and in good faith, the number of team members or representatives of GRB to make the Team Visit and the length of such Team Visit. For each team member or GRB representative (other than Gordon Ramsay for whom Section 7.3.1 shall apply): (a) PH or its travel desk shall purchase for such person, as applicable, (i) coach round trip airfare between any airport in the United States and Las Vegas McCarran International Airport or (ii) business round trip airfare between any airport outside the United States and Las Vegas McCarran International Airport; and (b) PH shall provide for the use of such team member or representative of GRB, at no cost or expense to such person, one (1) standard single room at the Hotel or the property owned by an Affiliate of PH known as PH (room and all applicable taxes); provided, however, such person shall be responsible for all incidental room charges (subject to a thirty percent (30%) discount) and other expenses incurred during the occupancy of such room.

8. LICENSE AND SERVICES FEES.

8.1 License and Services Fees.

8.1.1 Prior to repayment of the Initial Capital Investment, in consideration of the License and Services provided hereunder, PH shall pay to GRB a fee (the "License Fee") equal to:

(a) four percent (4%) of Gross Restaurant Sales up to ten million dollars (\$10,000,000); plus

(b) six percent (6%) of Gross Restaurant Sales greater than ten million dollars (\$10,000,000) up to twelve million dollars (\$12,000,000); plus

(c) eight percent (8%) of Gross Restaurant Sales greater than twelve million dollars (\$12,000,000); plus

(d) ten percent (10%) of all Gross Retail Sales

8.1.2 From and after the repayment of the Initial Capital Investment, in consideration of the License and Services provided hereunder, PH shall pay to GRB a License Fee equal to:

(a) six percent (6%) of Gross Restaurant Sales up to twelve million dollars (\$12,000,000); plus

(b) eight percent (8%) of Gross Restaurant Sales greater than twelve million dollars (\$12,000,000); plus

(c) ten percent (10%) of all Gross Retail Sales

8.2 Timing and Manner of Payments. The License Fee shall be payable on a calendar quarter basis and shall be paid by PH no later than thirty (30) days after the end of the quarter to which it relates

by check, money order or wire transfer in lawful funds of the United States of America to such address or account located within the United States of America as directed by GRB, from time to time.

8.3 Calculations. PH shall be solely responsible for maintaining and shall maintain, all books and records necessary to calculate the License Fee and, within thirty (30) days after the end of each quarter during each Fiscal Year shall deliver notice to GRB reasonably detailing the calculation of the License Fee. PH's calculations shall be conclusive and binding unless: (i) within thirty (30) calendar days' of PH's delivery of such notice, GRB notifies PH in writing of any claimed manifest calculation error therein; or (ii) such calculations are determined to be inaccurate as the result of any audit pursuant to Section 8.4. Upon receipt of any such notification, PH shall review the claimed manifest calculation error and, within thirty (30) calendar days of such notification, advise GRB as to the corrected calculation, if any. If GRB still disagrees with such calculation, the calculation shall not be binding and GRB shall be deemed to have reserved all of his rights related thereto under this Agreement. All cash flow of the Restaurant other than the amounts used to pay Operating Expenses and a reserve amount up to two percent (2%) of Gross Restaurant Sales, shall be applied by PH toward repayment of its Initial Capital Investment.

8.4 Audit. Subject to the remaining provisions of this Section 8.4, GRB shall be entitled at any time, at its sole cost and expense, upon ten (10) calendar days' notice to PH, but not more than two (2) times per calendar year, to cause an audit to be made, during normal business hours, by any Person designated by GRB and approved by PH (who shall not unreasonably withhold, delay or condition said approval), of all books, records, accounts and receipts required to be kept for the calculation of the License Fee and/or the repayment of the Initial Capital Investment, which shall not include tax returns of PH filed on a consolidated basis, and which audit shall be conducted without material disruption or disturbance to PH's operations. If such audit discloses that any License Fee and/or the repayment of the Initial Capital Investment was calculated in error, PH shall be entitled to review such audit materials and to conduct its own audit related to such period. If PH does not dispute the result of GR's audit within ninety (90) days after conclusion and presentation by GRB to PH of GR's findings, PH shall (in the next quarterly allocation) pay to GRB such additional monies necessary to compensate GRB. If such audit discloses that the License Fee owed by PH for any Fiscal Year exceeds the amount paid to GRB for such year more than five (5%) percent, or that the amount charged as repayment of the Initial Capital Investment was five (5%) or more less than it should have been, PH shall pay Gordon Ramsay the actual third party costs of such audit. PH may condition any audit under this Section 8.4 on the receipt of a confidentiality undertaking from any Person to whom information will be disclosed in connection with such audit, in form and substance satisfactory to PH.

9. OPERATIONS.

9.1 Marketing and Publicity. As promptly as practicable after the date hereof, GRB on the one hand, and PH, on the other hand, shall jointly develop a marketing plan with respect to the Restaurant and, during the Term, GRB on the one hand, and PH, on the other hand, shall jointly make all determinations regarding maintaining, updating or otherwise modifying such plan. PH shall make all determinations regarding the actual advertising, sales, promotional and other publicity materials relating to the Restaurant or the transactions contemplated by this Agreement and shall market the Restaurant in accordance with its standard procedures; provided, that any such materials containing the GRB Marks or General GR Materials shall require the prior approval of GRB not to be unreasonably withheld, conditioned or delayed; provided further, that PH shall not be in breach of such marketing obligations to the extent delayed or prevented due to the lack of prior approval of Gordon Ramsay or GRB if required herein. Except as set forth in the immediately preceding sentence, no party shall, and each party shall cause its Affiliates not to, publish or make any press release or other public statement relating to the Restaurant or the transactions contemplated by this Agreement without the prior consent of the other

parties, such consents not to be unreasonably withheld, conditioned or delayed. Neither Gordon Ramsay nor GRB will, and each will cause its Affiliates not to, publish, make or use any such publicity materials without the prior written consent of PH. Marketing consultations and meetings with respect to same, shall take place at such times and such places as the parties agree from time to time. PH shall inform GRB if it becomes aware of any publicity related to the Restaurant that may have a material negative impact on Gross Restaurant Sales or otherwise have a material adverse effect on the Restaurant (it being understood that PH has no obligation to make any effort to monitor for any such publicity). For the avoidance of doubt, the obligations of Gordon Ramsay and GRB set forth in this Section 9.1 shall not affect or otherwise modify the obligations of Gordon Ramsey or GRB set forth in Sections 7.1 and 7.2.

9.2 Operational Efficiencies. As reasonably required by PH from time to time during the Term, GRB, shall consult with PH and provide PH with advice regarding the Restaurant's food and beverage menus, quality standards, and operational, efficiency and profitability issues; provided, however, that PH, after fully and properly considering all reasonable recommendations received from GRB, shall have final approval with respect to all aspects of same. Such operational consulting and advice and meetings with respect to same, shall take place at such times and such places as the parties agree from time to time.

10. REPRESENTATIONS AND WARRANTIES.

10.1 PH's Representations and Warranties. PH hereby represents and warrants to Gordon Ramsay and GRB that:

10.1.1 PH is a limited liability company duly organized, validly existing, and in good standing under the laws of the jurisdiction of its organization;

10.1.2 PH has the valid corporate power to execute and deliver, and perform its obligations under, this Agreement and such execution, delivery and performance has been authorized by all necessary corporate action on the part of PH;

10.1.3 no consent or approval or authorization of any Person is required in connection with PH's execution and delivery, and performance of its obligations under, this Agreement;

10.1.4 there are no actions, suits or proceedings pending or, to the best knowledge of PH, threatened against PH in any court or administrative agency that would prevent PH from completing the transactions provided for herein;

10.1.5 this Agreement constitutes the legal, valid and binding obligation of PH, enforceable in accordance with its terms;

10.1.6 as of the Effective Date, no representation or warranty made herein by PH contains any untrue statement of material fact, or omits to state a material fact necessary to make such statements not misleading;

10.1.7 at all times during the Term, the Restaurant shall be a first-class gourmet restaurant and the Hotel shall maintain the standard and quality of the Hotel existing on the Effective Date, PH currently contemplates that the Restaurant will have at least 170 seats (including in the bar area) and except as otherwise required or restricted by law, regulation or legal process, at all times from and after the Opening date, the Restaurant will have at least 170 seats (including the bar area); and

10.1.8 to the extent that PH or its Affiliates utilizes a "point" or any similar system to offer complimentary, discounted or promotional food, beverage or merchandise to customers, the Restaurant shall be treated no less favorably with regard to redemption of "points" than any other restaurant in Hotel, such that, for example, if the best rate for redemption of "points" in the Hotel is "1 point per \$1 of menu price, the Restaurant will allow for redemption at the same (or lower) rate, but will not require that more than one point be redeemed for each \$1 of menu price. In any event, Gross Restaurant Sales will include the full menu price of such complimentary, discounted or promotional food, beverage and merchandise given to customers;

10.2 Gordon Ramsay's Representations and Warranties. Gordon Ramsay hereby represents and warrants to PH that:

10.2.1 Gordon Ramsay has the legal capacity to execute and deliver, and perform his obligations under, this Agreement;

10.2.2 no consent or approval or authorization of any Person (other than any governmental authority) is required in connection with the execution and delivery by Gordon Ramsay of, and performance by Gordon Ramsay of his obligations under, this Agreement, and to the best of his knowledge and belief, no such consent or approval or authorization is required of any applicable governmental authority;

10.2.3 there are no actions, suits or proceedings pending or, to the best knowledge of Gordon Ramsay, threatened against Gordon Ramsay in any court or before any administrative agency that would prevent Gordon Ramsay from completing the transactions provided for herein (including granting the License);

10.2.4 this Agreement constitutes the legal, valid and binding obligation of Gordon Ramsay, enforceable in accordance with its terms; and

10.2.5 as of the Effective Date, no representation or warranty made herein by Gordon Ramsay contains any untrue statement of a material fact, or omits to state a material fact necessary to make such statements not misleading.

10.3 GRB's Representations and Warranties. GRB hereby represents and warrants to PH that:

10.3.1 GRB is a limited liability company organized, validly existing, and in good standing under the laws of the jurisdiction of its organization;

10.3.2 The GRB Marks have not yet been registered. However, assuming such registration becomes effective, GRB will be the sole and exclusive owner or licensee of, and will have the right to license or sublicense all of the GRB Marks and the General GR Materials. GRB will use its best efforts to hereafter take, all actions necessary to maintain the GRB Marks and the General GR Materials, such that there is no restriction that exists on GRB's use of the GRB Marks and the General GR Materials. The GRB Marks and the General GR Materials are not subject to a current claim of infringement, interference or unfair competition or other claim and, to the best of GRB's knowledge, the GRB Marks and the General GR Materials are not being infringed upon or violated by any third party, no other Person has any right (by ownership, license or otherwise) to use the GRB Marks and the General GR Materials that would constitute a violation of the Exclusivity Provisions, the License and use of the GRB Marks and the General GR Materials contemplated hereby are consistent with the operating agreement of GRB (as in existence as of the date hereof) and have been approved in accordance with such operating agreement,

and each of Gordon Ramsay and GRB hereby approves and consents to the use of the GRB Marks and General GR Materials as contemplated by this Agreement;

10.3.3 no consent or approval or authorization of any Person (including the direct or indirect owners of GRB, but other than any governmental authority) is required in connection with the execution and delivery by GRB of, and performance by GRB of its obligations under, this Agreement, and to the best of GRB's knowledge and belief, no such consent or approval or authorization is required of any applicable governmental authority;

10.3.4 there are no actions, suits or proceedings pending or, to the best knowledge of GRB, threatened against GRB in any court or before any administrative agency that would prevent GRB from completing the transactions provided for herein (including granting the License);

10.3.5 this Agreement constitutes the legal, valid and binding obligation of GRB, enforceable in accordance with its terms; and

10.3.6 as of the Effective Date, no representation or warranty made herein by GRB contains any untrue statement of a material fact, or omits to state a material fact necessary to make such statements not misleading.

11. STANDARDS; PRIVILEGED LICENSE.

11.1 Standards. Each of Gordon Ramsay and GRB acknowledges that the PH is an exclusive first-class resort hotel casino and that the Restaurant shall be an exclusive first-class restaurant and that the maintenance of PH and GRB Marks, PH's and the Restaurant's reputation and the goodwill of all of PH's, PH's and the Restaurant's guests and invitees is absolutely essential to PH, and that any impairment thereof whatsoever will cause great damage to PH. GRB therefore covenants and agrees that (a) it shall not and it shall cause its Affiliates not to use or license GRB Marks or General GR Materials in a manner that is inconsistent with, or take any action that dilutes or denigrates, the current level of quality, integrity and upscale positioning associated with the GRB Marks and General GR Materials and (b) it shall and it shall cause its Affiliates to conduct themselves in accordance with the highest standards of honesty, integrity, quality and courtesy so as to maintain and enhance the reputation and goodwill of PH, the GRB Marks, PH and the Restaurant and at all times in keeping with and not inconsistent with or detrimental to the operation of an exclusive, first-class resort hotel casino and an exclusive, first-class restaurant. GRB shall use commercially reasonable efforts to continuously monitor the performance of each of its and its Affiliates' respective agents, employees, servants, contractors and licensees and shall ensure the foregoing standards are consistently maintained by all of them. Any failure by GRB or any of its respective Affiliates or any of their respective agents, employees, servants, contractors or licensees to maintain the standards described in this Section 11.1 shall, in addition to any other rights or remedies it PH have, give PH the right to terminate this Agreement pursuant to Section 4.2.4 in its sole and absolute discretion. For the avoidance of doubt, Gordon Ramsay's persona as exhibited on the television show Hell's Kitchen prior to the date hereof shall not constitute a failure by Gordon Ramsay to maintain the standards described in this Section 11.1.

11.2 Privileged License. Each of Gordon Ramsay and GRB acknowledges that PH and PH's Affiliates are businesses that are or may be subject to and exist because of privileged licenses issued U.S., state, local and foreign governmental, regulatory and administrative authorities, agencies, boards and officials (the "Gaming Authorities") responsible for or involved in the administration of application of laws, rules and regulations relating to gaming or gaming activities or the sale, distribution and possession of alcoholic beverages. The Gaming Authorities require PH, and PH deems it advisable, to have a compliance committee (the "Compliance Committee") that does its own background checks on, and

issues approvals of, Persons involved with PH and its Affiliates. Prior to the execution of this Agreement and, in any event, prior to the payment of any monies by PH to Gordon Ramsay and/or GRB hereunder, and thereafter on each anniversary of the Opening Date during the Term, (a) each of Gordon Ramsay and GRB shall provide or cause to be provided to PH written disclosure regarding its GR Associates and (b) the Compliance Committee shall have issued approvals of all of the GR Associates. Additionally, during the Term, on ten (10) calendar days written request by PH to Gordon Ramsay and GRB, Gordon Ramsay and GRB shall disclose to PH all GR Associates. To the extent that any prior disclosure becomes inaccurate, Gordon Ramsay and GRB shall, within ten (10) calendar days from that event, update the prior disclosure without PH making any further request. Each of Gordon Ramsay and GRB shall cause all GR Associates to provide all requested information and apply for and obtain all necessary approvals required or requested by PH or the Gaming Authorities. If any GR Associate fails to satisfy any such requirement, if PH or any of PH's Affiliates are directed to cease business with any GR Associate by any Gaming Authority, or if PH shall determine, in PH's sole and exclusive judgment, that any GR Associate is an Unsuitable Person, then immediately following notice by PH to Gordon Ramsay and GRB, (a) Gordon Ramsay and/or GRB shall terminate any relationship with the Person who is the source of such issue, (b) Gordon Ramsay and/or GRB shall cease the activity or relationship creating the issue to PH's satisfaction, in PH's sole judgment, or (c) if such activity or relationship is not subject to cure as set forth in the foregoing clauses (a) and (b), as determined by PH in its sole discretion, PH shall, without prejudice to any other rights or remedies of PH including at law or in equity, have the right to terminate this Agreement and its relationship with Gordon Ramsay and GRB. Each of Gordon Ramsay and GRB further acknowledges that PH shall have the absolute right to terminate this Agreement in the event any Gaming Authority requires PH or one of its Affiliates to do so. Any termination by PH pursuant to this Section 11.2 shall not be subject to dispute by Gordon Ramsay or GRB and shall not be the subject of any proceeding under Article 13.

12. CONDEMNATION; CASUALTY; FORCE MAJEURE.

12.1 Condemnation. In the event that during the Term the whole of the Restaurant shall be taken under power of eminent domain by any governmental authority or conveyed by PH to any governmental authority in lieu of such taking, then this Agreement shall terminate as of the date of such taking. In the event that during the Term a substantial portion of the Restaurant (thirty percent (30%) or more) shall be taken under power of eminent domain by any governmental authority or conveyed by PH to any governmental authority in lieu of such taking (as determined by PH in its sole and absolute discretion), PH may, in the exercise of its sole discretion, terminate this Agreement upon written notice give not more than thirty (30) calendar days after the date of such taking. All compensation awarded by any such governmental authority shall be the sole property of PH and neither Gordon Ramsay nor GRB shall have any right, title or interest in and to same except that Gordon Ramsay and GRB may pursue their own separate claim provided, that any such claim will not reduce the award granted to PH.

12.2 Casualty.

12.2.1 Permanent and Substantial Damage. If PH or the Restaurant experiences any Permanent Damage or any Substantial Damage, in each case PH shall have the right to terminate this Agreement upon written notice having immediate effect delivered to Gordon Ramsay within one hundred twenty (120) days after the occurrence of the Permanent Damage or Substantial Damage, as the case may be. All insurance proceeds recovered in connection with any damage or casualty to PH or Restaurant shall be the sole property of PH and neither Gordon Ramsay nor GRB shall have any right, title or interest in and to same.

12.2.2 Obligation in Connection With a Casualty. If (i) PH does not terminate this Agreement the event of a Substantial Damage to PH or Restaurant within the time periods provided in

Section 12.2.1, (ii) restoration and repair of the damage is permitted under applicable Law and the terms of any agreement to which PH or any of its Affiliates is a party and (iii) PH has received net insurance proceeds sufficient to complete restoration and repair, PH shall use commercially reasonable restore and repair PH or the Restaurant, as applicable, to its condition and character immediately prior to the damage. If all such restoration and repair is not completed within one hundred eighty (180) days following the occurrence of the damage, GRB shall have the right to terminate this Agreement upon written notice having immediate effect delivered to PH within one hundred twenty (120) days after one hundred eighty (180) days following the date of the damage and PH shall have no liability related to the failure of such completion to have occurred.

12.3 Excusable Delay. In the event that during the Term any party shall be delayed in or prevented from the performance of any of such party's respective agreements, covenants or obligations hereunder by reason of strikes, lockouts, unavailability of materials, failure of power, fire, earthquake or other acts of God, restrictive applicable laws, riots, insurrections, the act, failure to act or default of the other party, war, terrorist acts or other reasons wholly beyond its control and not reasonably foreseeable (each, an "Excusable Delay"), then the performance of such act shall be excused for the period of the delay and the period for the performance of such act shall be extended for a period equivalent to the period of such delay. Notwithstanding the foregoing, lack of funds shall not be deemed an Excusable Delay. Any claim for an extension of time due to an Excusable Delay must be made in writing and received by the other parties not more than fifteen (15) calendar days after the commencement of such delay, otherwise, such party's rights under this Section 12.3 shall be deemed waived.

12.4 No Extension of Term. Nothing in this Article 12 shall extend the Term and no other payments shall accrue during any period during which the Restaurant is closed by reason of such condemnation, casualty or Excusable Delay.

13. ARBITRATION.

13.1 Dispute Resolution. Except for a breach by PH of Article 6 or Section 14.17 or by Gordon Ramsay or GRB of Section 2.3, 2.4, or 14.17 or Article 6, as applicable, in the event of any other dispute, controversy or claim arising out of or relating to this Agreement between the parties to this Agreement ("Dispute"), any party may serve written notice (a "Dispute Notice") upon the other parties setting forth the nature of the Dispute and the relief sought, and the parties shall attempt to resolve the Dispute by negotiation. If the Dispute has not been resolved within thirty (30) days of receipt of a Dispute Notice, any party may serve on the other parties a request to resolve the Dispute by arbitration. All Disputes not resolved by the foregoing negotiation shall be finally settled by binding arbitration. Such arbitration shall be held in Las Vegas, Nevada in accordance with the Commercial Rules of Arbitration of the American Arbitration Association ("AAA"), in effect on the date of the Dispute Notice (the "Rules") by one or more arbitrators appointed in accordance with Section 13.2 hereof.

13.2 Arbitrator(s). If the claim in the Dispute Notice does not exceed Two Hundred Thousand and 00/100 Dollars (\$200,000.00), there shall be a single arbitrator nominated by mutual agreement of Gordon Ramsay and/or GRB (as the case may be) and PH and appointed according to the Rules. If the claim in the Dispute Notice exceeds Two Hundred Thousand and 00/100 Dollars (\$200,000.00), the arbitration panel shall consist of three (3) members unless Gordon Ramsay and/or GRB (as the case may be) and PH agree to use a single arbitrator. One of the arbitrators shall be nominated by PH, one of the arbitrators shall be nominated by Gordon Ramsay and/or GRB (as the case may be) and the third, who shall serve as chairman, shall be nominated by the two (2) party-arbitrators within thirty (30) days of the confirmation of the nomination of the second arbitrator. If either Gordon Ramsay and/or GRB, on the one hand, or PH, on the other hand, fails to timely nominate an arbitrator in accordance with the Rules, or if the two (2) arbitrators nominated by Gordon Ramsay and/or GRB and PH fail to timely agree upon a

third arbitrator, then such arbitrator will be selected by the AAA Court of Arbitration in accordance with the Rules. The arbitral award shall be final and binding on the parties and may be entered and enforced in any court having jurisdiction over any of the parties or any of their assets.

14. MISCELLANEOUS.

14.1 No Partnership or Joint Venture. Nothing expressed or implied by the terms of this Agreement shall make or constitute any party hereto the agent, partner or joint venturer of and with any other party. Accordingly, the parties acknowledge and agree that all payments made to GRB under this Agreement shall be for services rendered as an independent contractor and, unless otherwise required by law, PH shall report as such on IRS Form 1099, and all parties shall report this for financial and tax purposes in a manner consistent with the foregoing.

14.2 Successors, Assigns and Delagees. Except as otherwise set forth in this Agreement, no party may assign this agreement or any right, benefit or obligation hereunder, or delegate any obligation hereunder, without the prior written of the other parties (which consent may be withheld in any such other party's sole discretion); provided, however, that PH may assign or delegate all or any portion of this Agreement to an Affiliate of PH and may assign this Agreement in whole as contemplated by Section 14.4; provided further, that (a) GRB may assign this Agreement in its entirety to Gordon Ramsay so long as, at or prior to such assignment, Gordon Ramsay becomes the exclusive owner of the GRB Marks and possesses and at all times during the Term will possess the necessary right to license the GRB Marks to PH pursuant to this Agreement, free and clear of any restrictions except those imposed by this Agreement, and (b) Gordon Ramsay may assign his interest in this Agreement in its entirety to a Person that is controlled by Gordon Ramsay (subject to: (i) Gordon Ramsay having first provided to PH written disclosure regarding such Person; and (ii) the Compliance Committee having issued its necessary approvals, shall not to be unreasonably withheld, conditioned or delayed), provided, that in the event of any change of control of such Person, the interest in this Agreement assigned by Gordon Ramsay shall be deemed to be automatically assigned back to Gordon Ramsay and PH shall have the right to terminate this Agreement pursuant to Section 4.2.7(a) (it being understood that any such change of control shall be deemed a material breach of this Agreement). Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns and delagees.

14.3 Waiver of Rights. Failure to insist on compliance with any of the agreements, obligations and covenants hereof shall not be deemed a waiver of such agreements, obligations and covenants, nor shall any waiver or relinquishment of any right or power hereunder at anyone or more time or times be deemed a waiver or relinquishment of such rights or powers at any other time or times. The exercise of any right or remedy shall not impair PH's, Gordon Ramsay's or GRB's right to any other remedy.

14.4 Divestiture or Transfer of Management Rights of PH. Notwithstanding Section 14.2, PH may assign this Agreement to any purchaser or other acquirer of PH or to any entity to which PH assigns management or operational responsibility of PH. Notwithstanding the foregoing, Section 2.3 shall terminate upon consummation of such divestiture or assignment unless otherwise agreed by the acquirer or assignee.

14.5 Notices. Any notice or other communication required or permitted to be given by a party hereunder shall be in writing, and shall be deemed to have been given by such party to the other party or parties (a) on the date of personal delivery, (b) on the next business day following any facsimile transmission to a party at its facsimile number set forth below (if confirmation of transmission is received), (c) three (3) calendar days after being given to an international delivery company, or (d) ten (10) calendar days after being placed in the mail, as applicable, registered or certified, postage prepaid

addressed to the following addresses (each of the parties shall be entitled to specify a different address by giving notice as aforesaid):

If to PH:

Planet Hollywood Las Vegas, LLC
3667 Las Vegas Boulevard South
Las Vegas, Nevada 89109

With a copy (which shall not constitute notice) to:

Caesars Entertainment Corporation
One Caesars Palace Drive
Las Vegas, Nevada 89109
Attention: General Counsel

If to Gordon Ramsay:

Gordon Ramsay
c/o Gordon Ramsay Holdings Limited
1 Catherine Place London SW1E 6X
United Kingdom

With a copy (which shall not constitute notice) to:

Brian Ziegler
Certilman Balin Adler & Hyman, LLP
90 Merrick Avenue, 9th Floor
East Meadow, NY 11554

If to GRB:

GR BURGR, LLC
c/o Rowen Seibel
200 Central Park South
19th Floor
New York, NY 10019

And to Gordon Ramsay and Stuart Gilles
At the address listed above for Gordon Ramsay

With a copy (which shall not constitute notice) to:

Brian Ziegler
Certilman Balin Adler & Hyman, LLP
90 Merrick Avenue, 9th Floor
East Meadow, NY 11554

And to

Michael Thomas

Sheridans Solicitors
Alfred Place
London WC1E 7EA
United Kingdom

14.6 Entire Agreement. This Agreement constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations, and discussions, whether oral or written.

14.7 Severability. If any part of this Agreement is determined to be void, invalid or unenforceable, such void, invalid, or unenforceable portion shall be deemed to be separate and severable from the other portions of this Agreement, and the other portions shall be given full force and effect, as though the void, invalid or unenforceable portions or provisions were never a part of this Agreement.

14.8 Amendment and Modification. No supplement, modification, waiver or termination of this Agreement shall be binding unless executed in writing by the party to be bound; provided, that Gordon Ramsay may amend Exhibit B without PH's prior written consent upon reasonable prior notice to PH. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

14.9 Headings. Article or Section headings are not to be considered part of this Agreement and are included solely for convenience and reference and shall not be held to define, construe, govern or limit the meaning of any term or provision of this Agreement. References in this Agreement to an Article or Section shall be reference to an Article or Section of this Agreement unless otherwise stated or the context otherwise requires.

14.10 Governing Law; Submission to Jurisdiction; Specific Performance.

14.10.1 The laws of the State of Nevada applicable to agreements made in that State shall govern the validity, construction, performance and effect of this Agreement.

14.10.2 Notwithstanding any other provision of this Agreement, the parties acknowledge and agree that monetary damages would be inadequate in the case of any breach by PH of Article 6 or Section 14.17 or Gordon Ramsay or GRB, as applicable, of the covenants contained in Section 2.3, 2.4, or 14.18 or Article 6 of this Agreement. Accordingly, each party shall be entitled, without limiting its other remedies and without the necessity of proving actual damages or posting any bond, to equitable relief, including the remedy of specific performance or injunction, with respect to any breach or threatened breach of such covenants and each party (on behalf of itself and its Affiliates) consents to the entry thereof in any affected jurisdiction. In the event that any proceeding is brought in equity to enforce the provisions of this Agreement, no party hereto shall allege, and each party hereto hereby waives the defense or counterclaim that there is an adequate remedy at law.

14.10.3 Subject to the provisions of Sections 13.1 and 14.10.1, Gordon Ramsay, GRB and PH each agree to submit to the exclusive jurisdiction of any state or federal court within the Clark County Nevada (the "Nevada Courts") for any court action or proceeding to compel or in support of arbitration or for provisional remedies in aid of arbitration, including any action to enforce the provisions of Article 13 (each an "Arbitration Support Action") or for any action or proceeding contemplated by Section 14.10.2. Each of the parties hereto irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding in a Nevada Court arising out of this Agreement

including, but not limited to, an Arbitration Support Action or action or proceeding contemplated by Section 14.10.2 and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

14.11 Interpretation. This Agreement is to be deemed to have been prepared jointly by the parties hereto, and if any inconsistency or ambiguity exists herein, it shall not be interpreted against any party but according to the application of rules of the interpretation of contracts. Each party has had the availability of legal counsel with respect to its execution of this Agreement. The use of the terms "includes" or "including" shall in all cases herein mean "includes, without limitation" and "including, without limitation", respectively. All obligations and duties of Gordon Ramsay and/or his team to provide recommendations or advice to PH shall require Gordon Ramsay and his team to coordinate and provide only one communication with respect to such advice. The use of the terms "Gordon Ramsay and/or his team" or words of similar import shall in all cases herein mean "Gordon Ramsay shall, or shall cause one or more members of his team to," and the requirement of PH to obtain any consent or approval from Gordon Ramsay shall be satisfied upon the consent or approval of any team member of Gordon Ramsay designated by Gordon Ramsay/his team in writing and PH shall be entitled to rely on all communications from any such team member.

14.12 Third Persons. Except as provided in Section 14.15 and 14.16, nothing in this Agreement, expressed or implied, is intended to confer upon any Person other than the parties hereto any rights or remedies under or by reason of this Agreement.

14.13 Attorneys' Fees. The prevailing party in any dispute that arises out of or relates to the making or enforcement of the terms of this Agreement shall be entitled to receive an aware of its expenses incurred in pursuit or defense of said claim, including, without limitation, attorneys' fees and costs, incurred in such action.

14.14 Counterparts. This Agreement may be executed in counterparts, each one of which so executed shall be deemed an original, and all of which shall together constitute one and the same agreement.

14.15 Indemnification Against Third Party Claims.

14.15.1 By PH. PH covenants and agrees to defend, indemnify and save and hold harmless Gordon Ramsay, GRB and their respective Affiliates and their and their respective Affiliates' stockholders, directors, officers, agents and employees from and against all claims, losses, expenses, obligations, liabilities, liens, demands, charges, litigation and judgments, including court costs and reasonable attorneys' fees, incurred or suffered by them arising directly or indirectly from any claim, action, suit, demand, assessment, investigation, arbitration or other proceeding by or in respect of any third Person (a "Third-Party Claim") arising out of PH's breach, performance or non-performance of its obligations under or in connection with this Agreement.

14.15.2 By Gordon Ramsay and GRB. Each of Gordon Ramsay (as to his breach, performance or non-performance) and GRB (as to its breach, performance and non-performance) covenants and agrees, severally, to defend, indemnify and save and hold harmless PH and its Affiliates and PH's and PH's Affiliates' respective stockholders, directors, officers, agents and employees from and against all claims, losses, expenses, obligations, liabilities, liens, demands, charges, litigation and judgments, including court costs and reasonable attorneys' fees, incurred or suffered by them arising directly or indirectly from any Third-Party Claim arising out of Gordon Ramsay's breach, performance or

non-performance of his obligations or GRB's breach, performance or non-performance of its obligations, as the case may be, under or in connection with this Agreement.

14.15.3 Procedures. In connection with any Third Party Claim for which a Person (any of such Persons, an "Indemnified Person") is entitled to indemnification under this Section 14.15, the Indemnified Person asserting a claim for indemnification under this Section 14.15 shall notify the party from which indemnification is being sought (the "Indemnifying Person") of such Third Party Claim and the Indemnifying Person shall, at its sole cost and expense, defend such Third Party Claim or cause the same to be defended by counsel designated by the Indemnifying Person and reasonably acceptable to the Indemnified Person. Notwithstanding the foregoing, the Indemnified Person, at the Indemnifying Person's expense, if the Indemnifying Person does not undertake and duly pursue the defense of such Third Party Claim in a timely manner or, in the case of PH, if the Third Party Claim is asserted by any Governmental Authority, may defend such action, suit or proceeding or cause the same to be defended by counsel designated by the Indemnified Person. Neither the Indemnified Person nor the Indemnifying Person shall settle or compromise any Third Party Claim that is the subject of a claim for indemnification under this Section 14.15 without the prior written consent of the other.

14.16 Withholding and Tax Indemnification.

14.16.1 If PH is required to deduct and withhold from any payments or other consideration payable or otherwise deliverable pursuant to this Agreement to Gordon Ramsay or GRB any amounts under the Internal Revenue Code of 1986, as amended (the "Code"), or any provision of United States federal, state, local or foreign law, statute, regulation, treaty, administrative ruling, pronouncement or other authority or judicial opinion, PH agrees that, prior to said deduction and withholding, it shall provide Gordon Ramsay and GRB with notice of same. To the extent such amounts are so deducted or withheld, such amounts shall be treated for all purposes under this Agreement as having been paid to the person to whom such amounts would otherwise have been paid. If requested by PH, GRB shall promptly deliver, or cause to be promptly delivered, to PH all the appropriate Internal Revenue Service forms necessary for PH, in its sole and absolute discretion deems necessary to make a determination as to its responsibility to make any such U.S. federal withholding with respect to any payment payable pursuant to this Agreement.

14.16.2 Notwithstanding anything to the contrary in this Agreement, GRB shall be responsible for and shall jointly and severally indemnify and hold harmless PH and its Affiliates against (i) all Taxes (including, without limitation, any interest and penalties imposed thereon) payable by or assessed against PH or any of its Affiliates with respect to all amounts payable by PH to GRB pursuant to this Agreement and (ii) any and all claims, losses, damages, liabilities, costs and expenses (including reasonable attorneys' fees and expenses) suffered or paid by PH or any of its Affiliates as a result of or in connection with such Taxes. PH shall have the right to reduce any payment payable by PH to GRB pursuant to this Agreement in order to satisfy any indemnity claim pursuant to this Section. For purposes of this Section, the term "Tax" or "Taxes" means all taxes, assessments, charges, duties, fees, levies or other governmental charges, including all federal, state, local and foreign income, franchise, profits, capital gains, capital stock, transfer, sales, use, value added, occupation, property, excise, severance, windfall profits, stamps, license, payroll, social security, withholding and other taxes, or other governmental assessments, duties, fees, levies or charges of any kind whatsoever, all estimated taxes, deficiency assessments, additions to tax, penalties and interest.

14.17 Confidentiality.

14.17.1 Each party agrees that it shall not use, nor shall it induce or permit others to use, any of the Confidential Information of another party for any purpose other than to further the purpose of

this Agreement consistent with the terms hereof or as otherwise contemplated hereby. Each party further agrees that it shall not reveal, nor shall it permit or induce others to reveal, any of the Confidential Information of another party to any other Person: (i) except to the Representatives of the receiving party to the extent such Persons require knowledge of the same in connection with the transactions contemplated in this Agreement; (ii) except as required to comply with applicable laws, regulation or legal process (but only after compliance with Section 14.17.2); and (iii) except as otherwise agreed by the party to which the Confidential Information belongs in writing. Each party receiving, or whose Representatives receive, Confidential Information of another party (a "Recipient") shall inform its Representatives of the proprietary nature of such Confidential Information and shall be responsible for any further disclosure of such Confidential Information by any such Representative unless the Recipient would have been permitted to make such disclosure hereunder. Each Recipient, upon written request following termination of this Agreement, shall destroy any Confidential Information of another party in its or any of its Representative's possession (and certify to the destruction thereof).

14.17.2 In the event that a Recipient or any of its Representatives is requested or required by applicable law, regulation or legal process to disclose any of the Confidential Information of another party, the Recipient will notify the other party promptly in writing so that the other party may seek a protective order or other appropriate remedy, or, in the other party's sole discretion, waive compliance with the terms of this Agreement. The Recipient agrees not to, and agrees to cause its Representatives not to, oppose any action by the other party to obtain a protective order or other appropriate remedy. In the event that no such protective order or other remedy is obtained, or that the other party waives compliance with the terms of this agreement, the Recipient and its respective Representatives will furnish only that portion of the Confidential Information of the other party which the Recipient is advised by its counsel is legally required to be disclosed at that time and the Recipient will exercise its reasonable best efforts to obtain confidential treatment, to the extent available, for such Confidential Information so disclosed.

14.18 Subordination. For the avoidance of doubt, this Agreement does not create in favor of Gordon Ramsay or GRB any interest in real or personal property or any lien or encumbrance on PH or any ground or similar lease affecting all or any portion of PH (as the same may be renewed, modified, consolidated, replaced or extended, a "Ground Lease"). Each of Gordon Ramsay and GRB acknowledges and agrees that PH may from time to time assign or encumber all or any part of its interest in PH or any Ground Lease by way of any one or more mortgages, deeds of trust, security agreements or similar instruments (as the same may be renewed, modified, consolidated, replaced or extended, "Mortgages"), assign or encumber all or any part of its interest in this Agreement as security to any holder of a Mortgage or a landlord under a Ground Lease or enter into a Ground Lease. The rights of Gordon Ramsay and GRB hereunder whether with respect to PH and the revenue thereof or otherwise shall be inferior and subordinate to the rights and remedies of the holder of any Mortgage and the landlord under any Ground Lease. For the avoidance of doubt, neither Gordon Ramsay nor GRB shall have any right to encumber or subject PH or the Restaurant, or any interest of PH therein, to any lien, charge or security interest, including any mechanic's or materialman's lien, charge or encumbrance of any kind. GRB, at its sole cost and expense, shall promptly cause any and all such liens, charges or security interests to be released by payment, bonding or otherwise (as acceptable to PH in its sole discretion) within ten (10) days after GRB first has notice thereof. If GRB fails to timely take such action, PH may pay the claim relating to such lien, charge or security interest and any amounts so paid by PH shall be reimbursed by GRB upon demand.

14.19 Comps and Reward Points. Gordon Ramsay shall be entitled to reasonable comp privileges to be reasonably agreed to by the parties. PH shall cause the Restaurant to participate in PH's reward points system and the Restaurant shall be entitled to receive the point redemption thresholds in place as of the date of this Agreement for other first class, gourmet restaurants in PH. For purposes of

this Agreement, one reward point shall entitle the holder thereof to \$1.00 of food or beverage in the Restaurant.

14.20 Intellectual Property Rights. Except with respect to the GRB Marks and GR Materials, GRB acknowledges and agrees that PH shall own any works, trade names, trademarks, designs, trade dress, service names and service marks, and registrations thereof and applications for registration thereof, and all works of authorship, programs, techniques, processes, formulas, developmental or experimental work, work-in-process, methods or trade secrets and all other materials, work product, intangible assets or other intellectual property rights created or developed by any party for use in association with the Restaurant or otherwise pursuant to this Agreement except for any materials that that are created by any party pursuant to this Agreement in which any intellectual property rights of Gordon Ramsay, GRB and/or any of the Affiliates of either are embodied or incorporated, including all photographic or video images, all promotional materials and all marketing materials produced in accordance with this Agreement.

14.21 Additional Restaurant Projects. Additional Restaurant Projects. If PH elects to pursue any venture similar to the Restaurant (i.e., any venture generally in the nature of a burger centric or burger themed restaurant), GRB shall, or shall cause an Affiliate to, execute a development, operation and license agreement generally on the same terms and conditions as this Agreement, subject only to revisions agreed to by the parties, including revisions as are necessary to reflect the differences in such things as location, Project Costs, Initial Capital Investment, Operating Expenses and the potential for Gross Restaurant Sales between the Restaurant and such other venture and any resulting Section 8.1 threshold adjustments.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the Effective Date first written hereinabove.


PHW Las Vegas, LLC dba Planet Hollywood
by its manager **PHW Manager, LLC**

By: _____

Name: _____

Its: _____

Date: _____


John W.R. Payne
Authorized Representative
12-14-12

Legal
Department

Digitally signed by Legal
Department
DN: cn=Legal Department, o, ou,
email=asabo@caesars.com, c=US
Date: 2012.12.12 19:36:58 -08'00'

GR BURGR, LLC

By: Ronan Seibel
Name: Ronan Seibel
Its: Managing Member
Date: 12/13/12

STUART GILLIES
MANAGING MEMBER
S. Gillies
12/13/12

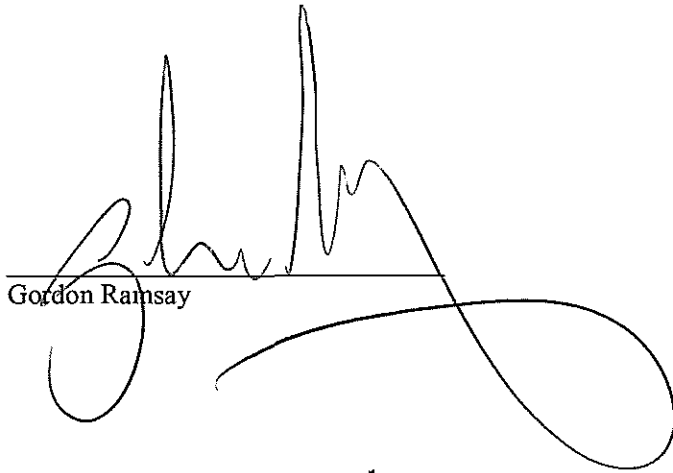
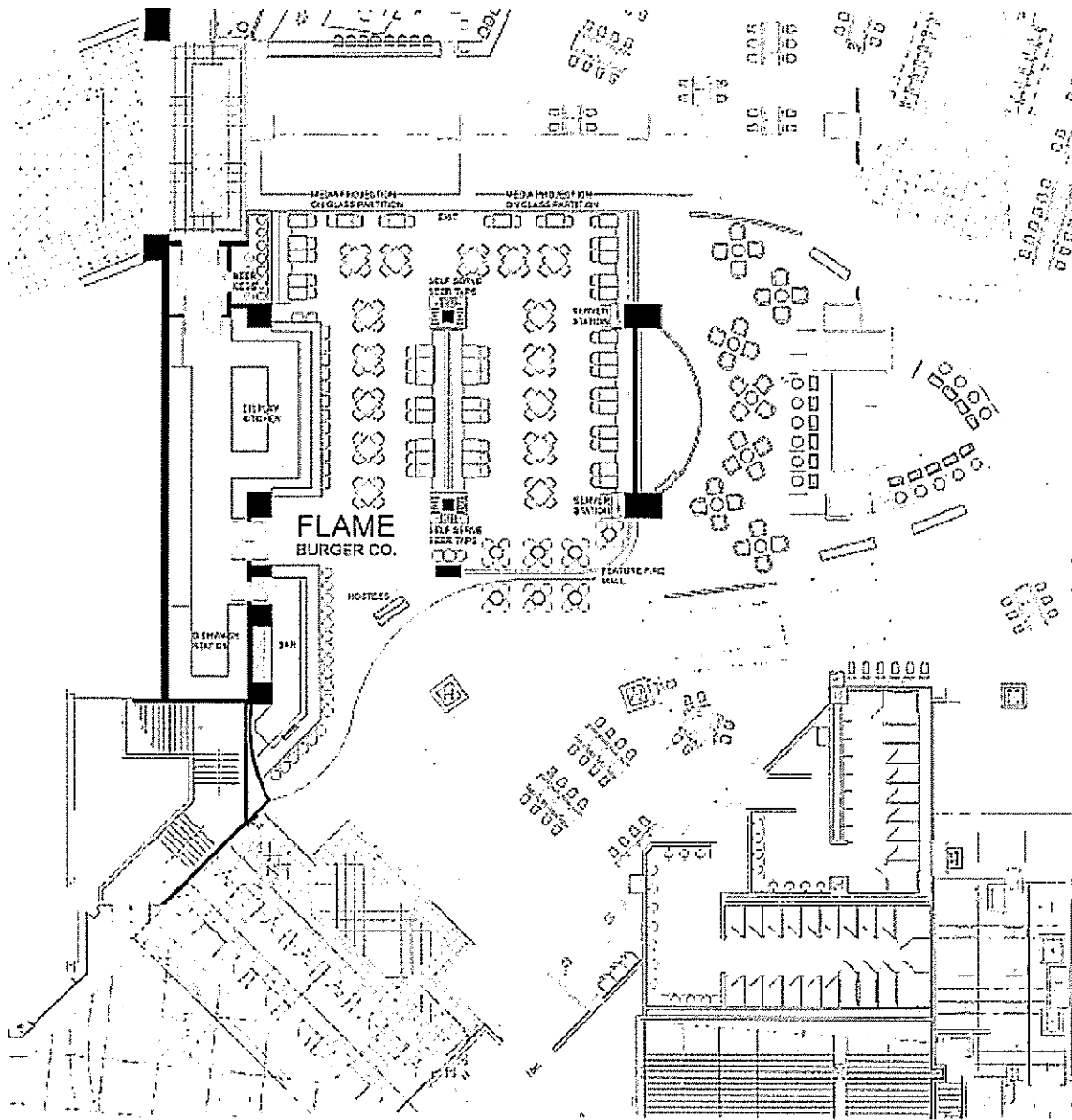

Gordon Ramsay

EXHIBIT A
RESTAURANT PREMISES

(SEE ATTACHED)

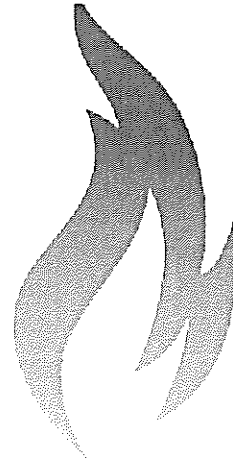


PROPOSED PLAN
200 SEATS
3800 SF DINING AREA
1200 SF KITCHEN / SERVICE / BOH

Total Square Footage = 6450

EXHIBIT B

GRB MARKS



BURGR

G O R D O N R A M S A Y

Exhibit 2

Mark A. Clayton
Tel 702.792.3773
Fax 702.792.9002
claytonm@gtlaw.com

September 21, 2016

VIA EMAIL AND OVERNIGHT COURIER

Gordon Ramsay
c/o Gordon Ramsay Holdings Limited
539-547 Wandsworth Road
London
SW8 3JD
United Kingdom

GR BURGR, LLC
c/o: Rowen Seibel
200 Central Park South, 19th Floor
New York, NY 10019

Brian Ziegler
Certilman Balin Adler & Hyman, LLP
90 Merrick Avenue, 9th Floor
East Meadow, NY 11554

Michael Thomas
Sheridans
Seventy Six Wardour Street
London
W1F 0UR
United Kingdom

Re: Development, Operation and License Agreement by and among PHW Las Vegas, LLC dba Planet Hollywood by its manager, PHW Manager LLC ("Caesars"), GR BURGR, LLC ("GRB"), and Gordon Ramsay, an individual dated December 13, 2012 ("Agreement")

Gentlemen:

Reference is made to my correspondence, dated September 2, 2016, regarding the Agreement. For purposes of this letter, capitalized terms not defined herein have the meaning set forth in the Agreement.

September 21, 2016

Page 2

As of 11:59 p.m. on September 20, 2016, Caesars had not received any evidence that GRB had disassociated with Rowen Seibel, an individual who is an Unsuitable Person, pursuant to the Agreement.

Because GRB failed to disassociate with an Unsuitable Person, Caesars hereby terminates the Agreement pursuant to Section 4.2.5 of the Agreement, effective immediately.

Lastly, Caesars reserves and retains all other rights and remedies available under the Agreement.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Clayton".

Mark A. Clayton
Shareholder

MAC/

Exhibit 3

DECLARATION OF TIM BOWEN

I, Tim Bowen, declare as follows:

1. I am the Vice President of Food & Beverage for Caesars Enterprise Services, LLC, and act on behalf of each of the properties within that enterprise, including the Planet Hollywood Las Vegas Resorts & Casino, operated by PHWLTV, LLC ("Planet Hollywood"). I have served in this capacity since November 2014. I am competent to testify to the facts stated herein, as those facts are based upon my personal knowledge or information that is within the possession, custody, and control of Planet Hollywood. I make this declaration in support of Planet Hollywood's Opposition to Plaintiff's Motion for Preliminary Injunction.

2. Since Planet Hollywood's September 21, 2016 termination of the Development, Operation and License Agreement (the "Development Agreement") for the Gordon Ramsay BurGR Restaurant (the "Burger Restaurant" or the "Restaurant"), Planet Hollywood has worked diligently to wind up the Restaurant's operations and move forward with other ventures without closing the restaurant and leaving a prime space vacant. To date, Planet Hollywood has changed signage in nineteen places inside and outside the restaurant, substituted cook coats, and is now retailing new and different items, such as shirts and hats that exhibit the new concept. Other changes are in the process, such as replacing menu items, china, and server shirts with the new logo and colors. Those changes will be complete by March 24, 2017. A new wall painting will be complete on March 21, 2017. The look, color scheme, and marketing pieces of the new restaurant are significantly different and continue to evolve.

3. The Burger Restaurant was aggressively branded. Therefore, as part of the wind up of the operations, everything needed to be replaced and rebranded, from logo plates to beverage coasters, cocktail napkins, dinner napkins, to go bags, to go cups, burger picks, cocktail picks, fry cones, pens, beer glasses, retail sale hats, shirts, menus, all employee uniforms, and restaurant and identity signage both inside and outside of the restaurant and casino.

4. Because of the aggressive branding and the necessary time to order and receive replacements, the wind up period at the Burger Restaurant has taken longer than that of the other Seibel-related restaurant formerly associated with Caesars, Serendipity 3. Serendipity 3 was not as

1 aggressively branded as the Burgr Restaurant, and the wind up of operations took place within a
2 similar contractual 120-day period.

3 5. As Planet Hollywood worked diligently through the steps of the wind up process at
4 the Burgr Restaurant, it was obvious that more than a 120 day wind up period was necessary. Upon
5 realization that more time was required, on or about January 5, 2017, Planet Hollywood told counsel
6 for GRUS, the only suitable member of GRB, that additional time was needed and that it would
7 complete the process as expeditiously as possible, by or before March 31, 2017.

8 6. GRUS did not object, and Planet Hollywood proceeded in its diligence under the
9 belief that the extended time was acceptable. For his part, Seibel did not object until he did so in
10 the complaint he filed on January 11, 2017.

11 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing
12 is true and correct and that I executed this declaration on this 17th day of March, 2017.

13
14 /s/ Time Bowen
TIM BOWEN

Exhibit 4



Jana C.

407

2877

Elite '17

New menu as of last Fri: fish and chips
axed, burGR now just Burger

April 19, 2017

Was this photo ...?

Helpful 1

Not Helpful

Ad Denny's

Jeanette E. said "Came on tonight and
upfront we were told by the manager that
there was a backup in the kitchen and gave
us a 15 min wait. [Read more](#)

AA01337



Kerensa U.

👍 39 📄 93 Elite '17

April 21, 2017

Was this photo ...?

👍 Helpful

👎 Not Helpful

GORDON
RAMSAY
burger

Ad **Denny's**

Jeanette E. said "Came on tonight and upfront we were told by the manager that there was a backup in the kitchen and gave us an estimate of 15-20 minutes. [Read more](#)

54
AA01338

Exhibit 5

SNACKS

- Fury Chicken Wings \$14 / \$13
tangy hellfire blue cheese wings
- Beer Battered Maui Onion Rings \$9 / \$8
parmigiano-reggiano + chipotle ketchup
+ cheddar ranch dip
- Roasted Jalapeño Poppers \$12 / \$11
cheddar bacon + cheddar ranch + one fiery surprise
- Hummus \$10 / \$9
flat bread + veggie sticks
- Honey-Pig Bao Buns \$13 / \$12
roasted pork belly + cucumber + radish
+ cilantro + honey-hoisin sauce
- Five Spice Chicken Sliders \$12 / \$11
cornflake breaded + sriracha mayo
+ pickled scallions + arugula

GREENS & SALAD

- Kale Granny-Apple Caesar Salad \$12 / \$11
parmigiano-reggiano cheese
+ mini herb-garlic croutons
- Soba Noodle Chicken Salad \$13 / \$12
sriracha chicken + edamame + carrots
+ cucumber + avocado + sesame seeds
+ cilantro-honey-peanut dressing

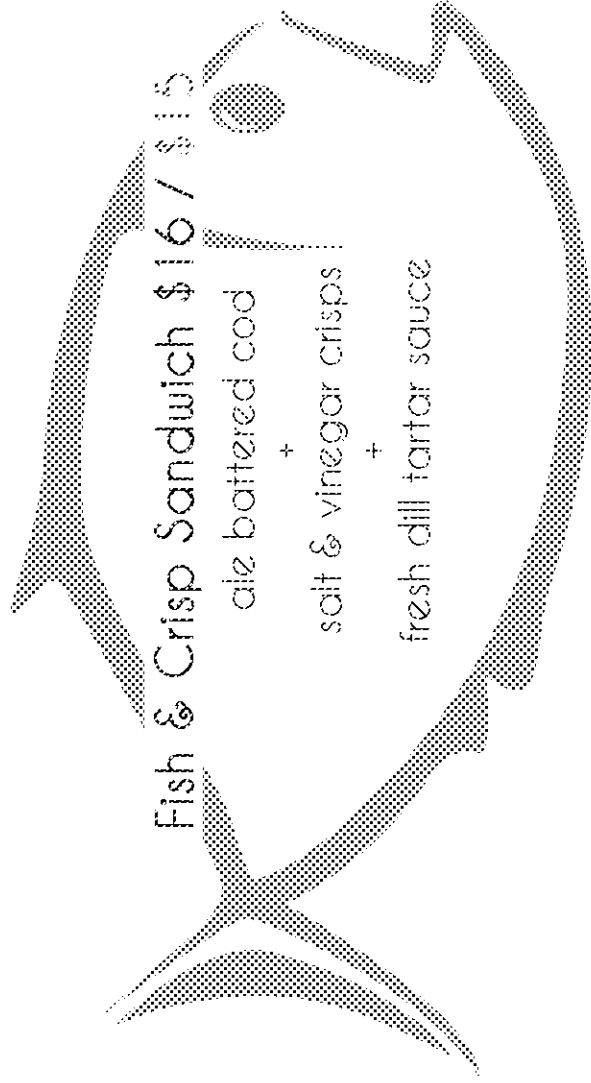
DEVIL DAUGS

- all natural beef snap-dog simmered in
hellfire sauce / grilled over apple & alder wood
- Standard Dawg \$12 / \$11
mustard + ketchup + pickle + onion
- Fresh Roasted Chili Dawg \$13 / \$12
roasted fresno pepper + jalapeños
+ cheddar cheese + avocado
+ red onion + chipotle ketchup

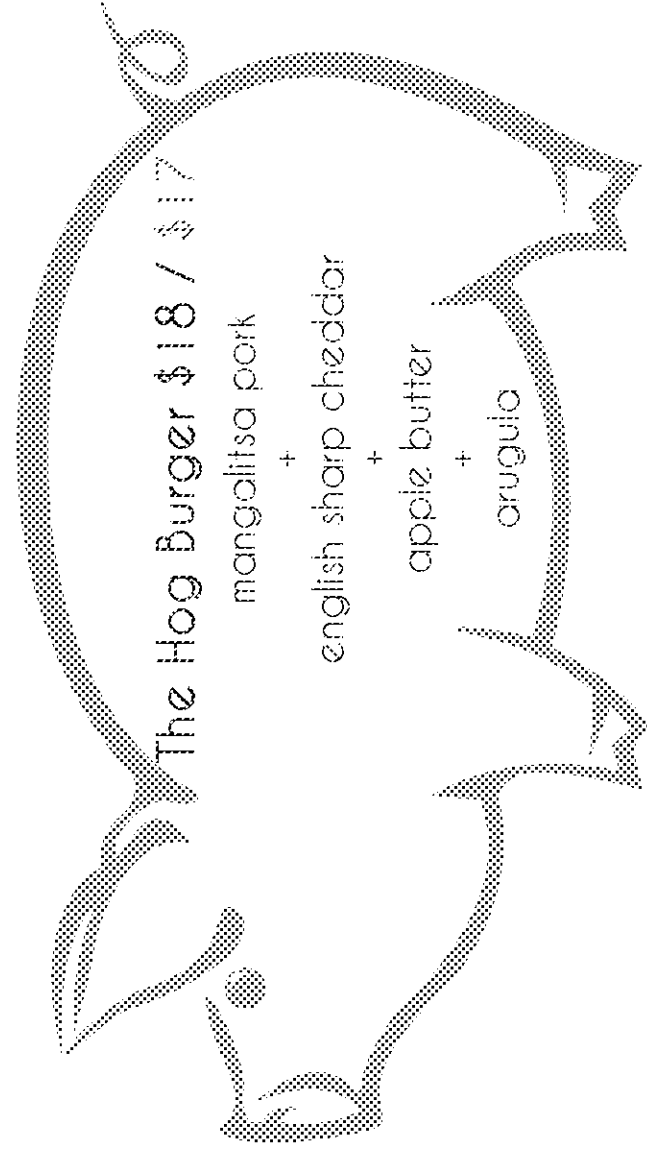
BURGERS*

grilled over apple & alder wood

- Blue Burger \$14 / \$13
maytag blue cheese + arugula
- American Burger \$13 / \$12
american cheese + butter lettuce + tomato
+ pickle + onion
- Hell's Kitchen Burger \$14 / \$13
asadero cheese + roasted jalapeño peppers + avocado
+ oven roasted tomato
- Uber Cheese Burger \$15 / \$14
fontina cheese + raclette cheese + goat cheese
- Euro Burger \$16 / \$15
truffle aioli + goat cheese + arugula
+ oven roasted tomato
- Chanterelle Burger \$16 / \$15
chanterelle mushrooms + arugula + figgy-onion jam
- Britannia Burger \$14 / \$13
english sharp cheddar + mango chutney + arugula
- Earth Burger (no meat) \$15 / \$14
grilled portobello mushroom + fontina cheese
+ arugula + roasted tomato
- Farm Burger \$15 / \$14
duck breast bacon + english sharp cheddar + fried egg
- Damnation Chicken Burger \$14 / \$13
fiery hot mayo + maytag blue cheese + celery & carrot slaw
- Southern Yardbird Burger \$14 / \$13
chicken burger + sharp cheddar + mustard bbq sauce
+ pickle + butter lettuce



- Fish & Crisp Sandwich \$16 / \$15
die battered cod
+ salt & vinegar crisps
+ fresh dill tartar sauce



- The Hog Burger \$18 / \$17
mangalitsa pork
+ english sharp cheddar
+ apple butter
+ arugula

FRIES

- Sweet Potato Fries \$9 / \$8
vanilla powdered sugar + honey
jalapeño mayo
- Truffle Parmesan Fries \$11 / \$10
hand cut fries + truffle parmesan
+ truffle salt + truffle aioli
- Just Fries \$8 / \$7
hand cut fries + chipotle ketchup
+ curry ketchup

Total Rewards pricing in orange

SUGAR FIX

- Shake #1 - \$9 / \$8
caramel pudding + chocolate shake
+ toffee cookie
- Shake #2 - \$9 / \$8
coconut pudding + strawberry shake + chocolate cookie
- Shake #3 - \$9 / \$8
butterscotch pudding + banana shake
+ snicker-doodle cookie
- Shake #4 - \$9 / \$8
creme brûlée pudding + oreo shake + oreo cookie
- Shake #5 - \$9 / \$8
chocolate hazelnut pudding + coffee shake
+ praline cookie
- Sticky Toffee Pudding \$7 / \$6
Push Up Pops (2)
salted peanut ice cream

BEVERAGES

- Fresh Brewed Coffee \$4
regular or decaffeinated
- Fresh Brewed Iced Tea \$4
- Bottled Water
evion small 4 large 7
badolite sparkling small 4 large 7
- Fountain Drinks \$4
pepsi + diet pepsi + mountain dew + sierra mist
+ mug rootbeer + raspberry tea
- Specialty Bottled Sodas \$5
dr. brown's rootbeer + dr. brown's cream soda
+ dr. brown's orange soda

* Thoroughly cooking food of animal origin, including but not limited to beef, eggs, fish, milk, poultry, or shellstock reduces the risk of food borne illness. Young children, elderly individuals with certain health conditions may be at a higher risk if these foods are consumed raw or undercooked.

Exhibit 6

SNACKS

Beer Battered Onion Rings **V** 9

parmigiano-reggiano, chipotle ketchup, cheddar ranch dip

Kettle Chip Nachos 13

shredded corned beef, short rib, sour cream, english cheddar cheese sauce

Hellfire Chicken Wings 14

tangy hellfire blue cheese wings

Mushroom Poutine 14

gravy, duck bacon, cheese curds, vinegar pickled shallots

Hummus **V** 11 **GF** - without flat bread

flat bread, veggie sticks

*Ahi Tuna Sliders 14

ahi tuna, sriracha mayo, cabbage, ponzu, crispy onion, jalapeño aioli

Chicken Saltimbocca Sliders 14

parma ham, sage, lemon aioli, arugula, buffalo mozzarella

Chips with Curry Sauce **V 8

hand cut fries, tomato curry dipping sauce

SOUP & SALADS

Cheddar Ale Soup 9

crispy parma ham, pretzel croutons, fresh chives

Baby Black Kale Apple Caesar Salad 13

frisee, baby black kale, romaine lettuce, shaved radishes, parmigiano-reggiano, petit croutons

Wheatberry-Quinoa Salad 15

wheatberries, white quinoa, chicken skewers, dried fruit, spring onions, radishes, lemon vinaigrette, avocado, cucumbers, garbanzo beans

**Curried Shrimp Salad 16

curry marinated and grilled shrimp, curry snicker doodle tuile, curry apple cider vinaigrette, assorted greens, cucumbers, toasted almonds, dried and green apples

58

AA01342

V - Vegetarian **GF** - Gluten-Free

SPECIALTIES

*Hog Burger 18

mangalitsa pork, mangalitsa bacon, bbq pork, white cheddar, pickles, crispy onion, slaw

*Lobster and Shrimp Burger 26

pan seared lobster and rock shrimp patty, pickled vegetables, herb aioli, frisee lettuce

FRIES

Truffle Parmesan Fries **GF** 12

Just Fries **GF** 8

Sweet Potato Fries 9

BANGERS & DAWGS

The BIG Dawg 12

mustard, ketchup, pickles, onions

Banger and Mash Dawg 15

one beef and one pork banger, potato croquette, onion gravy

BURGERS

*Hells' Kitchen Burger 16

asadero cheese, roasted jalapeños, avocado, roasted tomatoes, jalapeño aioli

*Backyard Burger 15

american cheese, butter lettuce, tomato, pickle, onion

*Farmhouse Burger 16

dublinar cheese, mangalitsa bacon, fried egg

*U.K. Burger 16

dublinar cheese, major grey's chutney, arugula

*Crown Burger 15

aged mimolette cheese, arugula, fine herb aioli, dried tomatoes

*Ultimate Cheeseburger 15

aged provolone, dublinar, boursin

Tandoori Chicken Burger 14

chicken burger, feta cheese, tabbouleh, tahini vinaigrette, frisee & mint vinaigrette

*Blue Cheeseburger 15

blue cheese, manchego cheese, figgy jam, arugula, cider vinegar reduction, spicy mayo

*Forest Burger 16

tremor cheese, seasonal forest mushrooms, arugula, duck bacon

**"Foie" Burger 22

foie gras spread, chèvre, port wine aioli, frisee

Patriot Burger 14

turkey patty, smoked gouda, cherry compote, spicy mayo, crisps, butter lettuce

*Portobella Burger **V** **No Meat** 17

portobella mushroom, aged mimolette cheese, boursin cheese, shaved vegetables, fine herb aioli

SWEETS

**Brown Butter Caramel Pecan Shake 9

brown butter ice cream, candied pecan shortbread crumble

**Crème Brûlée Shake 10

chocolate or oreo milkshake with a crème brûlée top

**Chocolate Caramel Tart 7

milk chocolate cream, hazelnut ice cream, hazelnut crunch, milk chocolate

White and Milk Chocolate Parfait 7

berries, lemon caramel, oatmeal streusel, shortbread cookies

Blood Orange Creamsicle 7

crème fraîche center

BEVERAGES

Fresh Brewed Coffee 4

Fresh Brewed Iced Tea 4

Fountain Drinks 4

pepsi

diet pepsi

mountain dew

mist twist

mug rootbeer

Bottled Water

Fiji 7

Badoit Sparkling 7

* Thoroughly cooking food of animal origin, including but not limited to beef, eggs, fish, milk, poultry, or shellstock, reduces the risk of food borne illness. Young children, elderly individuals with certain health conditions may be at a higher risk if these foods are consumed raw or undercooked.

** Some products may contain nuts.

Exhibit 7

SNACKS

Beer Battered Onion Rings **V** 9

parmigiano-reggiano, chipotle ketchup, cheddar ranch dip

Kettle Chip Nachos 12

shredded corned beef, short rib, sour cream, english cheddar cheese sauce

Hellfire Chicken Wings 14

tangy hellfire blue cheese wings

Mushroom Poutine 13

gravy, duck bacon, cheese curds, vinegar pickled shallots

Hummus **V** 10 **GF** - without flat bread

flat bread, veggie sticks

*Ahi Tuna Sliders 14

ahi tuna, sriracha mayo, cabbage, ponzu, crispy onion, jalapeño aioli

Chicken Saltimbocca Sliders 14

parma ham, sage, lemon aioli, arugula

Chips with Curry Sauce **V** 8

hand cut fries, tomato curry dipping sauce

SOUP & SALADS

Cheddar Ale Soup 9

crispy parma ham, pretzel croutons, fresh chives

Baby Black Kale Apple Caesar Salad 13

frisee, baby black kale, romaine lettuce, shaved radishes, pecorino romano, petit croutons

Wheatberry-Quinoa Salad 14

wheatberries, white quinoa, chicken skewers, dried fruit, spring onions, radishes, sherry vinaigrette, avocado

Curried Shrimp Salad 15

curry marinated and grilled shrimp, curry snicker doodle tuile, curry apple cider vinaigrette, assorted greens, toasted almonds, red and green apples

V - Vegetarian **GF** - Gluten-Free

SPECIALTIES

*Hog Burger 18

mangalitsa pork, mangalitsa bacon, bbq pork, white cheddar, pickles, crispy onion, slaw

*Lobster and Shrimp Burger 25

pan seared lobster and rock shrimp patty, pickled vegetables, herb aioli, frisee lettuce

BURGERS & DAWGS

The BIG Dawg 12

mustard, ketchup, pickles, onions

Banger and Mash Dawg 14

one beef and one pork banger, potato croquette, onion gravy

FRIES

Truffle Parmesan Fries **GF** 11

Just Fries **GF** 8

Sweet Potato Fries 9

BURGERS

*Hells' Kitchen Burger 15

asadero cheese, roasted jalapeños, avocado, roasted tomatoes, jalapeño pesto aioli

*Backyard Burger 15

american cheese, butter lettuce, tomato, pickle, onion

*Farmhouse Burger 15

dubliner cheese, mangalitsa bacon, fried egg

*U.K. Burger 15

dubliner cheese, major grey's chutney, arugula

*Crown Burger 15

aged mimolette cheese, arugula, fine herb aioli, dried tomatoes

*Ultimate Cheeseburger 15

aged provolone, dubliner, boursin

Tandoori Chicken Burger 14

chicken burger, feta cheese, tabbouleh, tahini vinaigrette, frisee & mint vinaigrette

*Blue Cheeseburger 14

blue cheese, manchego cheese, figgy jam, arugula, cider vinegar reduction, spicy mayo

*Forest Burger 15

tremor cheese, seasonal forest mushrooms, arugula, duck bacon

*"Foie" Burger 21

pate foie gras, chèvre, port wine aioli, frisee

Patriot Burger 14

turkey patty, smoked gouda, cherry compote, spicy mayo, crisps, butter lettuce

*Portobella Burger **V** 16

portobella mushroom, aged mimolette cheese, shaved vegetables, fine herb aioli

SWEETS

Brown Butter Caramel Pecan Shake 9

brown butter ice cream, candied pecan shortbread crumble

Crème Brûlée Shake 9

chocolate or oreo milkshake with a crème brûlée top

Chocolate Caramel Tart 7

milk chocolate cream, hazelnut ice cream, hazelnut crunch, milk chocolate

White and Milk Chocolate Parfait 7

berries, lemon caramel, oatmeal streusel, shortbread cookies

Blood Orange Creamsicle 7

crème fraîche center

BEVERAGES

Fresh Brewed Coffee 4

Fresh Brewed Iced Tea 4

Fountain Drinks 4

pepsi

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mountain dew

sierra mist

mug rootbeer

Bottled Water

Fiji 7

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* Some products may contain nuts.

Exhibit 8

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1. I am an adult and competent to testify to all matters herein and am familiar with all issues
pers herewith.

3. I am, and at all relevant times have been, a member and manager of GRB.

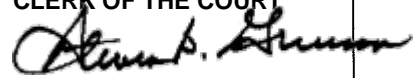
5. The exhibits cited in or attached to the Motion are true and correct copies of the matters presented.

7. GRB has not caused an affiliate to enter into an agreement with PH or Ramsay for the “Rebranded Restaurant.”

Row on Sect 1

ROWEN SEIBEL

TAB 29



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DISTRICT COURT

CLARK COUNTY, NEVADA

ROWEN SEIBEL, an individual and citizen of
New York, derivatively as Nominal Plaintiff
on behalf of Real Party in Interest GR
BURGR, LLC, a Delaware limited liability
company;

Plaintiff,

vs.

PHWLTV, LLC, a Nevada limited liability
company; GORDON RAMSAY, an
individual;

Defendants.

and

GR BURGR, LLC, a Delaware limited liability
company,

Nominal Defendant.

PHWLTV, LLC, a Nevada limited liability
company;

Counterclaimant

vs.

ROWEN SEIBEL, an individual and citizen of
New York, DOES I through X and ROE
CORPORATIONS XI through XX,

Counter-defendant

Case No.: A-17-751759-B

Dept. No.: XV

**PHWLTV, LLC'S OPPOSITION TO
PLAINTIFF'S MOTION FOR PARTIAL
SUMMARY JUDGMENT CONCERNING
(1) THE PAYMENT OF THE LICENSE
FEE THROUGH MARCH 31, 2017, AND
(2) THE BREACH OF § 14.21 OF THE
DEVELOPMENT AGREEMENT**

1 **I. INTRODUCTION**

2 Nominal Plaintiff Rowen Seibel ("Plaintiff" or "Seibel") asks this Court to consider his
3 motion for partial summary judgment in a vacuum and requests summary judgment while ignoring
4 and/or misrepresenting nearly all of the material facts in this matter. Seibel does so because he knows
5 the undisputed facts demonstrate that Seibel can blame no one but himself for the termination of the
6 Development, Operation, and License Agreement ("Development Agreement") between GR
7 BURGR, LLC ("GRB"), Gordon Ramsay ("Ramsay"), and PHWLTV, LLC ("Planet Hollywood").
8 Indeed, the *undisputed* facts demonstrate that Seibel, GRB's fifty percent owner and a GR
9 Associate,¹ was concealing material facts relating to his unsuitability dating all the way back to
10 the beginning of this relationship. Planet Hollywood had no prior knowledge of Seibel's financial
11 crimes, and found out with the rest of the world when news of Seibel's conviction hit the airwaves.
12 Now that Seibel's felony conviction for tax evasion is public, Seibel continues to blame everyone for
13 the implosion of this relationship but himself.

14 Seibel's intentional concealment of material facts related to his suitability, his unclean hands,
15 and the fact that a court in Delaware granted a request for dissolution of GRB prevent Seibel from
16 obtaining summary judgment on behalf of the soon to be dissolved entity. While Seibel would have
17 Planet Hollywood carry on a contract founded on misrepresentation, make payments to an entity that,
18 by association to him, is decidedly unsuitable, and form a new contract with a party that, as he tacitly
19 concedes, breached the last one, the law holds otherwise. As such, Seibel's Motion for Partial
20 Summary Judgment (the "Motion") must be denied.

21 **II. STATEMENT OF RELEVANT FACTS**

22 **A. The Development Agreement.**

23 Planet Hollywood is a gaming licensee and, as such, is subject to rigorous regulation. (Ex.
24 A, Decl. of Richard Casto ("Casto Decl."), ¶¶ 2-3.) As just one example, Planet Hollywood is
25 precluded from associating with unsuitable persons as such associations may result in revocation
26

27 ¹ GR Associate is defined under the Development Agreement as "Gordon Ramsay, GRB,
28 their respective Affiliates and their respective directors, officers, employees, agents,
representatives and other associates." (Ex. B, ¶ 2.2.)

1 of Planet Hollywood's gaming license. (*Id.* ¶ 3.) Thus, to ensure unwavering compliance,
2 gaming regulations require gaming licensees to police themselves and their affiliates. (*Id.* ¶ 5.)

3 As part of this self-policing obligation, Planet Hollywood expressly bargained for the sole
4 and exclusive right to make decisions to protect its gaming license, including sole discretion in
5 terminating the relationship with GRB if it or its associates were deemed unsuitable. Specifically,
6 the Development Agreement provides, in relevant part, that if in Planet Hollywood's "**sole and**
7 **exclusive judgment**" any GR Associate is determined to be an Unsuitable Person, Planet
8 Hollywood shall have the right to terminate the Development Agreement and its relationship with
9 Gordon Ramsay and GRB. (Ex. B, Development Agreement, § 11.2). At the time the Agreement
10 was executed, both GRB and Gordon Ramsay acknowledged that Planet Hollywood had "the
11 absolute right" to terminate the Development Agreement and any termination pursuant to Section
12 11.2 of the Development Agreement would not be subject to dispute by either Ramsay or GRB.
13 (*Id.*)

14 For the avoidance of doubt, the Development Agreement made clear that it was
15 conditional. First, it was conditioned on "submission by or on behalf of Gordon Ramsay and
16 GRB to PH of all information requested by PH regarding Gordon Ramsay, GRB, their respective
17 Affiliates and their respective directors, officers, employees, agents, representatives and other
18 associates (collectively, the "GR Associates") to ensure that they are not an Unsuitable Person."
19 (*Id.* § 2.2) Further, the Development Agreement was conditioned on Planet Hollywood being
20 satisfied, in its sole discretion, that no GR Associate was an Unsuitable Person. (*Id.*) This
21 requirement was ongoing under the Development Agreement and required that GRB *sua sponte*
22 notify Planet Hollywood of any changes:

23 Prior to the execution of this Agreement and, in any event, prior to the payment of
24 any monies by PH to Gordon Ramsay and/or GRB hereunder, and thereafter on
25 each anniversary of the Opening Date during the Term, (a) each of Gordon
26 Ramsay and GRB shall provide or cause to be provided to PH written disclosure
27 regarding its GR Associates and (b) the Compliance Committee shall have issued
28 approvals of all of the GR Associates. Additionally, during the Term, on ten (10)
calendar days written request by PH to Gordon Ramsay and GRB, Gordon
Ramsay and GRB shall disclose to PH all GR Associates. ***To the extent that any
prior disclosure becomes inaccurate, Gordon Ramsay and GRB shall, within
ten (10) calendar days from that event, update the prior disclosure without PH
making any further request.***

1 (*Id.* § 11.2 (emphasis added).)

2 **B. Seibel Conceals Material Facts that Render Him an Unsuitable Person.**

3 Seibel does not (nor can he) dispute that he was a GR Associate as defined in the
4 Development Agreement. Accordingly, pursuant to the express terms of the Development
5 Agreement, Seibel was required to disclose information to ensure that he was not an Unsuitable
6 Person. Specifically, Seibel was required to disclose his criminal conduct at the time of the
7 execution of the Development Agreement. As determined by the judge presiding over his
8 criminal matter, Seibel's "felony conviction relates to Seibel's actions to hide taxable income
9 from the Internal Revenue Service beginning in 2004." (Ex. C, Verified Petition for Judicial
10 Dissolution and Declaratory Judgment, ¶ 11.) Almost a decade before Seibel even executed the
11 Development Agreement, he was engaged in criminal conduct that was required to be disclosed to
12 Planet Hollywood. Yet, he failed to do so. (*See* Casto Decl. ¶ 9.) Seibel also failed to disclose to
13 Planet Hollywood that he attempted to seek amnesty for his crimes in 2009 and provided false
14 information to the Internal Revenue Service in an effort to do so. (*Id.*) Seibel likewise failed to
15 disclose that he pled guilty to a felony count in April 2016. (*Id.*) Undeterred to maintain his
16 criminal activities secret, Seibel further failed to disclose that he was sentenced for his crimes in
17 August 2016. (*Id.*) It was not until news articles emerged of Seibel's conviction – associating
18 Seibel with Caesars – that Planet Hollywood learned of Seibel's criminal activity and conviction.
19 (*Id.* ¶ 10.) Until that time, unbeknownst to Planet Hollywood, it had relied on false disclosures
20 from Seibel in previously determining that Seibel was suitable. (*Id.* ¶ 7.)

21 **C. Planet Hollywood Terminates the Development Agreement and GRB is**
22 **Dissolved.**

23 When Planet Hollywood became aware of Seibel's felonious conduct, and repeated
24 failures to disclose that conduct, Planet Hollywood promptly exercised its rights under the
25 Development Agreement and requested that GRB terminate any relationship with Seibel as he
26 ///

1 was an Unsuitable Person. (*Id.* ¶ 11.) The Development Agreement defines “Unsuitable Person”
2 as

3 any Person (a) whose association with PH or its Affiliates could be anticipated to
4 result in a disciplinary action relating to, or the loss of, inability to reinstate or
5 failure to obtain, any registration, application or license or any other rights or
6 entitlements held or required to be held by PH or any of its Affiliates under any
7 United States, state, local or foreign laws, rules or regulations relating to gaming
8 or the sale of alcohol, (b) whose association or relationship with PH or its
9 Affiliates could be anticipated to violate any United States, state, local or foreign
10 laws, rules or regulations relating to gaming or the sale of alcohol to which PH or
its Affiliates are subject, (c) who is or might be engaged or about to be engaged in
any activity which could adversely impact the business or reputation of PH or its
Affiliates, or (d) who is required to be licensed, registered, qualified or found
suitable under any United States, state, local or foreign laws, rules or regulations
relating to gaming or the sale of alcohol under which PH or any of its Affiliates is
licensed, registered, qualified or found suitable, and such Person is not or does not
remain so licensed, registered, qualified or found suitable.

11 (Ex. B, §1.)

12 Instead of terminating his association with GRB, Seibel proposed to transfer his interest to
13 a family trust controlled by his attorney and wife. (Ex. C, Verified Petition, ¶ 18.) This proposal
14 was rejected by both GRUS and Planet Hollywood as it would not terminate Seibel’s association
15 with GRB. (*Id.* ¶¶ 19, 21.) Not having received evidence of Seibel’s disassociation from GRB
16 as required by the Development Agreement, Planet Hollywood terminated the Agreement.

17 Following termination of the Development Agreement, on or about October 13, 2016,
18 GRUS filed a petition in Chancery Court in Delaware to dissolve GRB, which was a Delaware
19 limited liability company. (*See generally id.*) GRUS explained that GRB had “ceased to do
20 business and its ability to carry on any future business [was] not reasonably practicable in light of
21 the felony conviction of Rowen Seibel.” (*Id.* ¶ 1.) On or about August 25, 2017, the Delaware
22 Court ordered the dissolution of GRB and ordered the parties to endeavor to agree upon a
23 liquidating trustee who would determine “whether any action should be taken on behalf of GRB
24 in connection with” the claims asserted in this action. (Ex. D, Order Dissolving GR Burgr, LLC
25 and Appointing Liquidating Trustee, at 2.) The Delaware Court appointed a liquidating trustee on
26 October 5, 2017. (*Id.* ¶ 3.)

1 **D. The Wind Up of Operations for the Burgr Restaurant and the License Fees.**

2 In the event of an early termination of the Development Agreement, Section 4.3.2 granted
3 certain rights to Planet Hollywood. Specifically, Planet Hollywood was “entitled to operate the
4 Restaurant and use the License for one hundred and twenty (120) days from such termination to
5 orderly and properly wind up operations of the Restaurant” (Ex. B, Development
6 Agreement, § 4.3.2.) Thus, after the termination of the Development Agreement, Planet
7 Hollywood worked diligently to wind up the Restaurant operations. (Ex. E, Declaration of Tim
8 Bowen (“Bowen Decl.”), ¶ 2.) But, because the Burgr Restaurant was more aggressively
9 branded, the wind-up period was lengthier than for other Seibel-related restaurants in the Caesars
10 Entertainment enterprise. (*Id.* ¶¶ 3-4.) Everything needed to be replaced and rebranded, from
11 logo plates to beverage coasters, cocktail napkins, dinner napkins, to go bags, to go cups, burger
12 picks, cocktail picks, fry cones, pens, beer glasses, retail sale hats, shirts, menus, all employee
13 uniforms, and restaurant and identity signage both inside and outside of the restaurant and casino.
14 (*Id.*) Despite the challenge, the work of rebranding was taken up promptly and with great
15 diligence. (*Id.* ¶ 2.) Planet Hollywood replaced its wall painting, incorporated its new logo on
16 the patches of employee uniforms, substituted cook coats, changed signage in nine places
17 throughout the hotel, and is now retailing new and different items, such as shirts and hats that
18 exhibit the new concept. (*Id.* ¶¶ 2, 5.) Seibel has presented no ***admissible evidence*** contradicting
19 that the concept is different. (*See generally* Mot.)

20 Because of Seibel’s unsuitability, requiring Planet Hollywood to terminate the
21 Development Agreement, Planet Hollywood had concerns about making License Fee payments to
22 GRB for use of the GRB Marks and General GR Materials during the wind-up period given
23 GRB’s inability to disassociate with Seibel. (Ex. F, Declaration of Boris Petkov (“Petkov Decl.”),
24 ¶¶ 2, 4.) Accordingly, Planet Hollywood accrued the License Fee for their use during the wind-
25 up period. (*Id.* ¶ 3.) While Seibel incorrectly states that Planet Hollywood has stated it “is ready,
26 willing, and able to” pay those funds to Seibel, what Planet Hollywood has consistently explained
27 is that given the concerns about making payments to an entity with an unsuitable affiliation (*i.e.*,
28

1 Seibel), Planet Hollywood is ready, willing, and able to place License Fees funds *in escrow*
2 *pending resolution of this action.* (*Id.* ¶ 5.)

3 **III. ANALYSIS**

4 Summary judgment is only appropriate “when the pleadings and other evidence on file
5 demonstrate that no ‘genuine issue as to any material fact [remains] and that the moving party is
6 entitled to a judgment as a matter of law.’” *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d
7 1026, 1029 (2005) (quoting NRCP 56(c); *Tucker v. Action Equip. and Scaffold Co.*, 113 Nev.
8 1349, 1353, 951 P.2d 1027, 1029 (1997)). “A factual dispute is genuine when the evidence is
9 such that a rational trier of fact could return a verdict for the nonmoving party.” *Wood*, 121 Nev.
10 at 731, 121 P.3d at 1031 (citation omitted). When opposing a motion for summary judgment,
11 “the non-moving party must, by affidavit or otherwise, set forth specific facts demonstrating the
12 existence of a genuine issue for trial.” *NGA No. 2 Ltd. Liab. Co. v. Rains*, 113 Nev. 1151, 1157,
13 946 P.2d 163, 167 (1997) (quoting *Posadas v. City of Reno*, 109 Nev. 448, 452, 851 P.2d 438,
14 442 (1993)). “The substantive law controls which factual disputes are material and will preclude
15 summary judgment.” *Wood*, 121 Nev. at 731, 121 P.3d at 1031 (citation omitted). “A dispute as
16 to a material fact is genuine if there is sufficient evidence for a reasonable jury to return a verdict
17 for the nonmoving party.” *Lucas v. Bell Trans*, 773 F. Supp. 2d 930, 934 (D. Nev. 2011). “The
18 party moving for summary judgment bears the initial burden of demonstrating the absence of a
19 genuine issue of fact for trial.” *Devereaux v. Abbey*, 263 F.3d 1070, 1076 (9th Cir. 2001) (citing
20 *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986)). Importantly, “[e]vidence introduced in support
21 of or opposition to a motion for summary judgment must be admissible evidence,” *Collins v.*
22 *Union Fed. Sav. & Loan Ass’n*, 99 Nev. 284, 302, 662 P.2d 610, 621 (1983) (citing NRCP 56(e)
23 (emphasis added)), and a proper foundation must be established, *Orr v. Bank of Am., NT & SA*,
24 285 F.3d 764, 774 (9th Cir. 2002) (providing that a proper foundation is established by personal
25 knowledge or any manner permitted by Federal Rule of Evidence 901(b) or 902).²

26
27 ² Seibel’s Motion fails on this basis alone. In support of his Motion, Seibel includes a
28 declaration alleging that “[t]he exhibits cited in or attached to the Motion are true and correct
copies of the matters presented.” (Ex. 8 to Mot.) Seibel has not demonstrated that he has

1 While Seibel wants this Court to consider this motion in a vacuum, it cannot. There are
2 material issues of fact that preclude summary judgment, and a holistic view of the facts
3 unequivocally demonstrates that summary judgment is not appropriate on either Seibel's breach
4 of contract, specific performance, or declaratory relief requests.

5 **A. Material Facts Exist as to Seibel's Breach of Contract Claim.**

6 Under Nevada law, "[a] plaintiff in a breach of contract action must 'show (1) the
7 existence of a valid contract, (2) a breach by the defendant, and (3) damage as a result of the
8 breach.'" *Brown v. Kinross Gold U.S.A., Inc.*, 531 F. Supp. 2d 1234, 1240 (D. Nev. 2008)
9 (quoting *Saini v. Int'l Game Tech.*, 434 F.Supp.2d 913, 920–21 (D. Nev. 2006) (citing
10 *Richardson v. Jones*, 1 Nev. 405, 405 (1865)). When reviewing a contract, a court must interpret
11 the contract as a whole and avoid negating any contract provision. *Rd. & Highway Builders v. N.*
12 *Nev. Rebar*, 128 Nev., Adv. Op. 36, 284 P.3d 377, 380 (2012) (citations omitted); *see also Musser*
13 *v. Bank of Am.*, 114 Nev. 945, 950, 964 P.2d 51, 54 (1998) ("[C]ontracts should be construed so
14 as to avoid rendering portions of them superfluous.")

15 "A material breach by one party to a contract may excuse further performance by
16 another party to the contract." *Crockett & Myers, Ltd. v. Napier, Fitzgerald & Kirby, LLP*, 440
17 F. Supp. 2d 1184, 1193 (D. Nev. 2006) (citing *Young Elec. Sign Co. v. Fohrman*, 86 Nev. 185,
18 466 P.2d 846, 847 (1970)) (emphasis added). "The party who commits the first breach of a
19 contract cannot maintain an action against the other for a subsequent failure to perform." *Id.*
20 (quoting *Bradley v. Nev.-Cal.-Or. Ry.*, 42 Nev. 411, 178 P. 906, 908–09 (1919)). "Whether a
21 party has breached a contract and whether the breach is material are questions of fact." *Rebel*
22 *Commc'ns, LLC v. Virgin Valley Water Dist.*, No. 2:10-CV-0513-LRH-GWF, 2015 WL 4172442,
23 at *9 (D. Nev. July 9, 2015) (quoting *Las Vegas Sands, LLC v. Nehme*, 632 F.3d 526, 536 (9th
24 Cir. 2011)).

25 Here, the undisputed facts demonstrate that Plaintiff breached the Development
26 Agreement by fraudulently concealing material facts. This fraudulent concealment excuses
27

28 personal knowledge of the documents he purports to authenticate. Thus, the documents are not
admissible. *See Orr*, 285 F.3d at 774.

1 performance due, if any, by Planet Hollywood. *See Cladianos v. Friedhoff*, 69 Nev. 41, 47, 240
2 P.2d 208, 211 (1952) (providing that by virtue of Cladiano's breach, Friedhoff's right to damages
3 was brought in to existence, and his performance was thus excused). It is undisputed that Seibel
4 was obligated, as an essential term of the Development Agreement, to disclose his criminal
5 activities. The Development Agreement provided that Plaintiff was obligated, "**prior to the**
6 **payment of any monies by PH,**" and "on each anniversary of the Opening Date during the Term,"
7 to "provide or cause to be provided to PH written disclosure regarding its GR Associates and "[t]o
8 the extent that any prior disclosure becomes inaccurate, Gordon Ramsay and GRB shall, within
9 ten (10) calendar days from that event, update the prior disclosure without PH making any further
10 request." (Ex. B, § 11.2 (emphasis added).) Prior to the execution of the Development
11 Agreement, Seibel was obligated to disclose his felonious conduct and his efforts to obtain
12 amnesty for such conduct. He did not. On or around April 18, 2016, when Seibel pleaded guilty
13 to impeding the due administration of the internal revenue laws under 26 U.S.C. § 7212(a), a
14 Class E felony, he was also required under the Development Agreement to update his disclosure
15 within ten days. Again, he did not.

16 Seibel failed to disclose his tax crimes from the inception to the termination of the parties'
17 contractual relationship. (Casto Decl. ¶¶ 8-9) Despite the ongoing and significant developments
18 in Seibel's criminal case, **he concealed the information from Planet Hollywood over the span of**
19 **years.** (*See id.*) It was not until Seibel's sentencing hearing was covered by the media that Planet
20 Hollywood learned of Seibel's conviction and failure to disclose.

21 The actions that Plaintiff took in breaching the Development Agreement were also
22 material. It is not that Plaintiff failed to disclose a misdemeanor; it is that Plaintiff failed to
23 disclose a felony. It is not that Plaintiff failed to disclose one thing; it is that he failed to disclose
24 several. And it is not that Plaintiff's disclosure was delayed; it is that Plaintiff's disclosure never
25 occurred. Thus, his acts were not slight deviations, but significant violations of the contract. As a
26 result, Planet Hollywood was then forced to exercise its right to terminate the Development
27 Agreement, and accrue the license fee until Seibel became disassociated from GRB.
28 Seibel's/GRB's first breach under the Development Agreement precludes Plaintiff from pursuing

1 a claim for breach of contract under the Development Agreement against Planet Hollywood and
2 creates a genuine issue of material fact that precludes judgment in his favor on either his claim for
3 breach of contract or his requests for declaratory relief.³

4 **B. Plaintiff's license fee claim is not entitled to specific performance as a form of**
5 **relief.**

6 “[S]pecific performance is available only when: (1) the terms of the contract are definite
7 and certain; (2) the remedy at law is inadequate; (3) the appellant has tendered performance; and
8 (4) the court is willing to order [specific performance].” *Mayfield v. Koroghli*, 124 Nev. 343,
9 351, 184 P.3d 362, 367 (2008) (quotations omitted). The remedy at law for breach of contract, if
10 Plaintiff were entitled to it, would be adequate and thus specific performance is not appropriate.
11 See *Goldberg v. Barreca*, No. 217CV2106JCMVCF, 2017 WL 3671292, at *8 (D. Nev. Aug. 24,
12 2017) (“[T]he availability of damages for breach of the joint venture agreement (including ‘profits
13 which might have been made’) means that the harm is still reparable, even without specific
14 performance of the purported partnership agreement.”).

15 Expectation damages, if Plaintiff were entitled to them, would put Plaintiff in the same
16 position he would have been had Planet Hollywood paid the License Fee. *Dynalectric Co. of*
17 *Nevada v. Clark & Sullivan Constructors, Inc.*, 127 Nev. 480, 487, 255 P.3d 286, 291 (2011)
18 (“This measure of damages placed C & S in the same position that it would have occupied if
19 Dynalectric had performed as it promised, and thus, it constitutes expectation damages.”);
20 *Magnum Opes Const. v. Sanpete Steel Corp.*, No. 60016, 2013 WL 7158997, at *3 (Nev. Nov. 1,
21 2013) (“Expectation damages would give Sanpete the entire benefit of its bargain.”). Moreover,

22
23 ³ “Declaratory relief is available only if: (1) a justiciable controversy exists between persons
24 with adverse interests, (2) the party seeking declaratory relief has a legally protectable interest in
25 the controversy, and (3) the issue is ripe for judicial determination. *Knittle v. Progressive*
26 *Casualty Ins. Co.*, 112 Nev. 8, 10, 908 P.2d 724, 725 (1996). Whether a determination in an
27 action for declaratory judgment is proper is a matter for the district court’s discretion.” *Cty. of*
28 *Clark v. Upchurch*, 114 Nev. 749, 752, 961 P.2d 754, 756 (1998). Plaintiff has no legally
protectable interest in the license fees. As set forth above, Plaintiff’s fraudulent concealment of
his crimes constituted a breach of the Development Agreement, and Plaintiff’s breach excused
Planet Hollywood’s performance under the law. *Cladianos v. Friedhoff*, 69 Nev. 41, 47, 240 P.2d
208, 211 (1952) (providing that one party’s breach may excuse the other’s). Thus, Planet
Hollywood was not required to pay the License Fees, and Plaintiff is not entitled to the
declaratory relief he seeks.

1 the remedy of specific performance is reserved for cases where the subject matter is unique; not a
2 matter of money. *See Baroi v. Platinum Condo. Dev., LLC*, 874 F. Supp. 2d 980, 984 (D. Nev.
3 2012) (“Nevada will enforce contractual obligations through the remedy of specific performance
4 where appropriate, particularly in real estate transactions because real property is ‘unique,’ and
5 damages therefore may be an inadequate remedy.”); *see also Stoltz v. Grimm*, 100 Nev. 529, 533,
6 689 P.2d 927, 930 (1984) (affirming award of specific performance where “the subject matter of
7 the contract was real property, and as such is unique”).

8 Here, Seibel has not demonstrated that the subject matter of the Development Agreement
9 is unique and/or that money damages would not be an appropriate remedy at law. Indeed, if this
10 Court determines that Seibel has properly asserted GRB’s claims, which he has not, the remedy is
11 recovery of the license fee, *i.e.*, money damages, an adequate remedy at law. Therefore, Seibel’s
12 request for specific performance fails.

13 **C. Plaintiff’s Unclean Hands Preclude Equitable Relief.**

14 Plaintiff cannot obtain specific performance or declaratory relief because of his own
15 conduct. A plaintiff is precluded from attaining an equitable remedy when it has violated
16 equitable principles in its prior conduct related to the action. *Las Vegas Fetish & Fantasy*
17 *Halloween Ball, Inc. v. Ahern Rentals, Inc.*, 124 Nev. 272, 275, 182 P.3d 764 (2008) (“*The*
18 *unclean hands doctrine generally bars a party from receiving equitable relief because of that*
19 *party’s own inequitable conduct.*” (quotations omitted) (emphasis added)); *Truck Ins. Exch. v.*
20 *Palmer J. Swanson, Inc.*, 124 Nev. 629, 637-38, 189 P.3d 656, 662 (2008) (“The doctrine bars
21 relief to a party who has engaged in improper conduct in the matter in which that party is seeking
22 relief.”).

23 Seibel’s conduct precludes any equitable relief. To be clear, the undisputed evidence
24 demonstrates that Seibel defrauded the IRS and fraudulently concealed this fact along with his
25 criminal conviction from Planet Hollywood, despite a clear and unambiguous obligation to
26 disclose under the Development Agreement. Seibel’s concealment and fraudulent conduct were
27 the basis for Planet Hollywood’s termination of the Development Agreement. Seibel cannot now
28

1 claim that he is entitled to a declaration under the contract that he breached, unbeknownst to
2 Planet Hollywood, from its inception.

3 **D. Disputed Material Facts Exist as to Whether Planet Hollywood was Required**
4 **to Enter Into a New Contract with GRB.**

5 Plaintiff argues that “Planet Hollywood and Ramsay breached § 14.21 of the parties’
6 contract by failing to enter an agreement with GRB to operate another burger-centric or burger-
7 themed restaurant.” (See Mot. 3:7-9 (citing Compl. ¶¶ 112(d) and (f)).) On this premise, Plaintiff
8 seeks summary judgment for his breach of contract and declaratory relief claims. He is entitled to
9 neither. No provision of the Development Agreement obligated Planet Hollywood to enter into a
10 new contract with Plaintiff. Nonetheless, Plaintiff hangs his hat on paragraph 14.21, which
11 provides as follows:

12 If PH elects to pursue any venture similar to the Restaurant (i.e., any venture
13 generally in the nature of a burger centric or burger themed restaurant), GRB
14 shall, or shall cause an Affiliate to, execute a development, operation and license
15 agreement generally on the same terms and conditions as this Agreement

16 (Ex. B, ¶ 14.21.)

17 But paragraph 14.21 is not enforceable—either legally or practically.

18 First, as practical matter, even if Planet Hollywood desired to enter into a new contract
19 with GRB, it is, as a matter of a fact, impossible. GRB has been dissolved. (Ex. D, Dissolution
20 Order.) It therefore cannot execute a development, operation, and license agreement. Nor would
21 it, as a dissolved entity, be able to perform under any such agreement. As such, the request that
22 Seibel seeks is unavailable and summary judgment must be denied.

23 Second, Planet Hollywood cannot enter into a new agreement with GRB because both
24 GRB and Mr. Seibel are Unsuitable Persons. Thus, even if GRB had not been dissolved, this
25 provision is not enforceable because it would require Planet Hollywood to enter into a business
26 relationship with Unsuitable Persons—an action that it is legally prohibited from taking.

27 Third, contrary to Plaintiff’s contentions, section 14.21 does not require Planet Hollywood
28 to enter into a new agreement with GRB. Two phrases in this provision are indicative of the
parties’ intent to obligate GRB, not Planet Hollywood: 1) “If PH elects”; and 2) “GRB shall.” “If

1 PH elects” advises that it is by Planet Hollywood’s choice that a new contract will be formed.
2 “GRB shall” further informs that upon Planet Hollywood’s election, the act is mandatory for
3 GRB. *See State v. Am. Bankers Ins. Co.*, 106 Nev. 880, 882, 802 P.2d 1276, 1278 (1990)
4 (providing that “‘shall’ is presumptively mandatory”). Read plainly, paragraph 14.21 obligates
5 GRB to enter into a contract at Planet Hollywood’s discretion, not the other way around.

6 Moreover, Section 4.3.2(e) expressly provides that Planet Hollywood “shall have the right,
7 but not the obligation, immediately or at any time after such expiration or termination, to operate
8 a restaurant in the Restaurant Premises.” (Ex. B, § 4.3.2(e)). The only restriction is that Planet
9 Hollywood may not use the “Restaurant’s food and beverage menus or recipes developed by GRB
10 and/or Gordon Ramsay or use any of the GRB Marks.” (*Id.*) Seibel presents no admissible
11 evidence to demonstrate that Planet Hollywood is using the “Restaurant’s food and beverage
12 menus or recipes” or “any of the GRB Marks.” In contrast, Planet Hollywood has set forth
13 admissible evidence in the form of the Declaration of Tim Bowen demonstrating that the new
14 restaurant concept is rebranded and the “look, color scheme, and marketing pieces of the new
15 restaurant are significantly different and continue to evolve.” (Ex. E, Bowen Decl. ¶ 2.)

16 Fourth, paragraph 14.21 is not enforceable as a restrictive covenant because it is overly
17 broad, indefinite, and vague. *See Hansen v. Edwards*, 83 Nev. 189, 191-92, 426 P.2d 792, 793
18 (1967) (“A restraint of trade is unreasonable. in the absence of statutory authorization or dominant
19 social or economic justification, if it is greater than is required for the protection of the person for
20 whose benefit the restraint is imposed or imposes undue hardship upon the person restricted. The
21 period of time during which the restraint is to last and the territory that is included are important
22 factors to be considered in determining the reasonableness of the agreement.”) Paragraph 14.21 is
23 overly broad and indefinite because it does not contain any temporal limitations. It is also
24 indefinite and vague because it does not clearly define the future ventures that are purportedly
25 subject to the restrictive covenant. Accordingly, under Nevada law, paragraph 14.21 is an
26 unenforceable restrictive covenant.

1 Fifth, as a prior breaching party, GRB/Seibel has no right to insist upon further benefits
2 from the now breached and terminated Agreement. *Crockett & Myers, Ltd.*, 440 F. Supp. 2d at
3 1193. Seibel's Motion must be denied.

4 **IV. CONCLUSION**

5 Based on the foregoing, Planet Hollywood respectfully requests that this Court deny
6 Plaintiff's Motion for Partial Summary Judgment in its entirety.

7 DATED this 5th day of October 2017.

8 PISANELLI BICE PLLC

9 By: 

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16 *Counsel for Defendant PHWLTV, LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 5 day of October 2017, I caused to be sent via the Court's E-Filing/E-Service system, a true and correct copy of the above and foregoing **PHWLTV, LLC'S OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT CONCERNING (1) THE PAYMENT OF THE LICENSE FEE THROUGH MARCH 31, 2017, AND (2) THE BREACH OF § 14.21 OF THE DEVELOPMENT AGREEMENT** to the following:

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An employee of PISANELLI BICE PLLC

EXHIBIT A

2 || I, Richard Casto, declare as follows:

3 1. I am the Director of Corporate Compliance and Investigations for Caesars Enterprise
4 Services, LLC, and act on behalf of each of the properties within that enterprise, including the
5 Planet Hollywood Las Vegas Resorts & Casino, operated by PHWLTV, LLC ("Planet Hollywood").
6 I have served in this capacity since November 3, 2014. I am competent to testify to the facts stated
7 herein as those facts are based upon my personal knowledge or information that is within the
8 possession, custody, and control of Planet Hollywood. I make this declaration in support of
9 Planet Hollywood's Opposition to Plaintiff's Motion for Preliminary Injunction.

10 || 2. Planet Hollywood is a Nevada gaming licensee.

11 3. Pursuant to Nevada Gaming Commission Regulation 3.080, Planet Hollywood's
12 gaming license may be revoked based on its associations with unsuitable persons:

The commission may deny, revoke, suspend, limit, condition, or restrict any registration or finding of suitability or application therefor upon the same grounds as it may take such action with respect to licenses, licensees and licensing; without exclusion of any other grounds. *The commission may take such action on the grounds that the registrant or person found suitable is associated with, or controls, or is controlled by, or is under common control with, an unsuitable person.*

19 (Emphasis added.)

4. Consistent with its compliance program, mandated by Nevada gaming regulations, Planet Hollywood made a determination that Seibel was an Unsuitable Person, as that term is specifically defined in the Development Agreement:

"Unsuitable Person" is any Person (a) whose association with PH or its Affiliates could be anticipated to result in a disciplinary action relating to, or the loss of, inability to reinstate or failure to obtain, any registration, application or license or any other rights or entitlements held or required to be held by PH or any of its Affiliates under any United States, state, local or foreign laws, rules or regulations relating to gaming or the sale of alcohol, (b) whose association or relationship with PH or its Affiliates could be anticipated to violate any United States, state, local or foreign laws, rules or regulations relating to gaming or

1 the sale of alcohol to which PH or its Affiliates are
2 subject, (c) who is or might be engaged or about to be
3 engaged in any activity which could adversely impact
4 the business or reputation of PH or its Affiliates, or
5 (d) who is required to be licensed, registered, qualified
6 or found suitable under any United States, state, local
7 or foreign laws, rules or regulations relating to gaming
8 or the sale of alcohol under which PH or any of its
9 Affiliates is licensed, registered, qualified or found
10 suitable, and such Person is not or does not remain so
11 licensed, registered, qualified or found suitable.

12 (Ex. 1, Development Agreement, § 1 Definitions, p. 6.)

13 5. Seibel asserts that Planet Hollywood improperly terminated the Development
14 Agreement because Planet Hollywood's termination of the Development Agreement based upon its
15 determination that Seibel was "unsuitable" was made in bad faith. Seibel's assertion lacks
16 understanding of a gaming licensee's duties and obligations to comply with Nevada gaming
17 regulations, as well as the express language of the contract. The Development Agreement's
18 suitability provisions and the express authority therein for Planet Hollywood to take action it deems
19 necessary in its sole and exclusive judgment to protect its gaming license by disassociating with
20 unsuitable persons is not limited to a decision by the gaming regulators alone. Rather, the express
21 language in the Development Agreement related to suitability also allows Planet Hollywood to take
22 action in advance of an actual administrative determination by gaming authorities. The express
23 contractual language serves to fulfill Planet Hollywood's obligations under Nevada gaming laws
24 and regulations to self-police, and to take independent, proactive, and preventative measures related
25 to unsuitable persons. In short, the Development Agreement's suitability provisions reduce the risk
26 that Planet Hollywood will be swept up in disciplinary actions, or worse – have its license
27 revoked—based on the conduct of its associates.

28 6. Planet Hollywood anticipated that Seibel's association with Planet Hollywood could
result in a disciplinary action relating to its gaming license, but Planet Hollywood also found Seibel
to be an Unsuitable Person because he was engaged in activity that could adversely impact the
business or reputation of Planet Hollywood or its affiliates.

7. Seibel put Planet Hollywood's gaming license at risk by misrepresenting his
suitability. Initially, Caesars' corporate investigation team relied on the information it had on file

1 from Seibel and Gordon Ramsay's most recent disclosures to make a determination that GRB was
2 suitable.

3 8. Although the Development Agreement required that Seibel and GRB update the
4 disclosures if anything became inaccurate or other material changes occurred, which includes
5 prosecution for criminal conduct, (Ex. 1 § 11.2), Seibel did not reveal his criminal conduct when
6 he entered into the Development Agreement, nor did he reveal any criminal activities throughout
7 the term of the Development Agreement.

8 9. The Development Agreement obligated Seibel to disclose to Planet Hollywood,
9 among other things, the federal investigations surrounding his illegal banking activities overseas,
10 his application for and denial of amnesty for those illegal activities, his intent to plead guilty to a
11 felony, his felony guilty plea in April 2016, that judgment was entered on his guilty plea on
12 August 19, 2016, and that he was convicted in the Southern District of New York of felony tax
13 evasion pursuant to 26 U.S.C. § 7212(a), in an amount of more than \$1 million, and was ordered to
14 serve time. Seibel disclosed none of these things to Planet Hollywood.

15 10. Planet Hollywood first learned of Seibel's felonious conduct and guilty conviction
16 from news articles, like Eater Las Vegas, which published an article with a title directly related to
17 Seibel's affiliation with Caesars enterprises: "IRS Busts Caesars Palace's Serendipity 3 Owner
18 Rowen Seibel."

19 11. When Planet Hollywood learned of Seibel's felony conviction and related conduct,
20 Planet Hollywood promptly exercised its express contractual right to protect its gaming license and
21 terminate the Development Agreement via letters sent on September 2 and September 21, 2016.

22 12. In early April 2016, apparently prior to his pleading guilty to a felony charge, Seibel
23 sent a number of assignment documents related to his interests in entities doing business with
24 Caesars. The assignments purported to transfer his interests to The Seibel Family 2016 Trust. To
25 my knowledge and on information and belief, none of the assignment agreements Seibel sent in
26 April 2016 related to GRB and/or the Gordon Ramsay Burgr Restaurant at Planet Hollywood.

27 13. Seibel never revealed to Planet Hollywood or Caesars that the purported
28 assignments were motivated by his then-forthcoming guilty plea.

14. Until receipt of the September 15, 2016 letter from counsel for Gordon Ramsay and GRB member, GRUS, neither Planet Hollywood nor Caesars was aware that GRUS had rejected Seibel's proposed assignment of his interest in GRB, either in the post-conviction time frame or in April when GRUS apparently asked Seibel questions about his desired transfer and Seibel did not respond.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct and that I executed this declaration on this 17th day of March, 2017.

/s/ Richard Casto
RICHARD CASTO

EXHIBIT B

DEVELOPMENT, OPERATION AND LICENSE AGREEMENT
AMONG
GORDON RAMSAY,
GR BURGR, LLC
AND
PHW MANAGER, LLC ON BEHALF OF PHW LAS VEGAS, LLC
DBA PLANET HOLLYWOOD

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Exhibit A – Restaurant Premises

Exhibit B – GRB Marks

DEVELOPMENT, OPERATION AND LICENSE AGREEMENT

THIS DEVELOPMENT, OPERATION AND LICENSE AGREEMENT (the "Agreement") shall be deemed made, entered into and effective as of this 13th day of December, 2012 by and among PHW Las Vegas, LLC dba Planet Hollywood by its manager, PHW Manager, LLC having its principal place of business at 3667 Las Vegas Boulevard South, Las Vegas, Nevada 89109 ("PH"), GR BURGR, LLC, a Delaware limited liability company having a place of business located at 200 Central Park South, 19th Floor, New York, New York 10019 ("GRB") and to the limited extent specifically provided herein, Gordon Ramsay, an individual with an address at 1 Catherine Place London SW1E 6X United Kingdom.

RECITALS

A. PH owns or operates a hotel/casino resort complex located at 3667 Las Vegas Boulevard South, Las Vegas, Nevada 89109, currently known as Planet Hollywood ("Hotel"), which is depicted on Exhibit A attached to this Lease;

B. GRB has the exclusive rights to use and exploit the GRB Marks and General GR Materials and principals of GRB (i.e. Gordon Ramsay and Rowen Seibel) have certain qualifications, expertise and reputation in development and operation of first-class restaurants;

C. PH in consultation with GRB to the extent set forth herein, desires to design, develop, construct and operate a restaurant featuring primarily burger centric food and beverages known as "BURGR Gordon Ramsay" (collectively, the "Restaurant") in those certain premises within the Hotel more particularly shown on Exhibit A attached hereto (the "Restaurant Premises"); and

D. PH desires to obtain a license to use certain GRB Marks and General GR Materials from GRB and to retain GRB, Gordon Ramsay and/or his team to perform certain services and fulfill certain obligations with respect to consultation concerning the design, development, construction and operation of the Restaurant, and GRB desires to grant a license to use certain GRB Marks and General GR Materials to PH and GRB and Gordon Ramsay desires to be retained by PH to perform (and/or cause his team to perform) such services and fulfill such obligations, and the parties desire to enter into this Agreement to set forth their respective rights and obligations with respect thereto, all as more particularly set forth herein.

NOW THEREFORE, in consideration of the promises and the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree that the foregoing recitals are true and correct and further agree as follows:

1. DEFINITIONS

As used herein, the following terms have the meanings set forth or referenced below. Other terms may be defined in other Articles and Sections of this Agreement.

"Additional GR Restaurant Visits" has the meaning set forth in Section 7.2.

"Affiliate" means, with respect to a specified Person, any other Person who or which is directly or indirectly controlling, controlled by or under common control with the specified Person, or any member, stockholder or comparable principal of, the specified Person or such other Person. For purposes of this definition, "control", "controlling", "controlled" mean the right to exercise, directly or indirectly, at least

five percent (5%) of the voting power of the stockholders, members or owners and, with respect to any individual, partnership, trust or other entity or association, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled Person. Notwithstanding the foregoing, with respect to PH, the term "Affiliate" shall only include PHW Manager, LLC and PH's Parent and its direct and indirect controlled subsidiaries and shall not include any shareholder or director of PH's Parent or any Affiliate of any such shareholder or director of PH's Parent other than an Affiliate that is PH's Parent or its direct or indirect controlled subsidiaries. Additionally, Gordon Ramsay and Rowen Seibel shall not be deemed Affiliates of one another.

"Arbitration Support Action" has the meaning set forth in Section 14.10.3.

"Competing Concepts" has the meaning set forth in Section 2.3.1.

"Confidential Information" means, as to a party, information about that party and its Affiliates, including information such as business plans, strategies, costing information, prospects and locations, that (i) is furnished by or on behalf of the party to a Recipient or its Representatives, or (ii) otherwise becomes known to a Recipient or its Representatives as a result of the transactions contemplated hereby; provided, that, "Confidential Information" shall not include any information which the Recipient can clearly show (a) is or has become openly known to the public through no fault of the Recipient or its Representatives, (b) was lawfully obtained by the Recipient from a source other than the disclosing party or its Representatives, who the Recipient reasonably believes (after due inquiry) is not subject to any obligation of confidentiality or restriction on use or disclosure to the disclosing party or its Affiliates or any other Person or (c) was developed independently by the Recipient or its Affiliates.

"Dispute" has the meaning set forth in Section 13.1.

"Dispute Notice" has the meaning set forth in Section 13.1.

"Early Termination Payment" means an amount equal to fifty percent (50%) of the amount paid or payable to GRB pursuant to Section 8.1 for the six (6) complete months ended at the end of the calendar month immediately prior to the effective date of termination of this Agreement.

"Effective Date" means the later of the date of this Agreement and the date on which PH determines, in its sole discretion, that none of the GR Associates is an Unsuitable Person.

"Exchange Act" has the meaning set forth the definition of GR Change of Control.

"Exclusivity Provisions" has the meaning set forth in Section 2.3.1.

"Excusable Delay" has the meaning set forth in Section 12.3.

"Existing Restaurants" has the meaning set forth in Section 2.4.3.

"Fiscal Year" means (a) for the first Fiscal Year the period commencing on the Opening Date and ending on December 31 of the calendar year in which the Opening Date occurs and (b) each subsequent period of twelve months commencing on January 1 and ending on December 31 of any calendar year.

"GR Associates" has the meaning set forth in Section 2.2.

"GRB Marks" means any trademark owned by GRB utilizing the "BURGR Gordon Ramsay" name or otherwise used to identify the Restaurant as set forth on Exhibit B, and ancillary design, menu, uniforms and overall BURGR Gordon Ramsay concept.

"General GR Materials" means the concept, system, menus and recipes designed for use in connection with the Restaurant that are (a) created by or for Gordon Ramsay or GRB or containing trade secrets of Gordon Ramsay or GRB as of the Effective Date and (b) as are provided from time to time by Gordon Ramsay or GRB to PH for the purposes of this Agreement.

"GR Promotional Visits" has the meaning set forth in Section 7.1.

"Gross Restaurant Sales" means all receipts or revenues of the Restaurant from all sources of any kind (subject to the limitations set forth in this Agreement), including the sale of food and beverage, door charges, and room rental fees computed on an accrual basis in accordance with generally accepted accounting principles consistently applied by PH, excluding only (i) federal, state and local excise, sales, use or rent taxes collected from customers from receipts which are included in Gross Restaurant Sales, (ii) gratuities paid to the employees of the Restaurant (or paid to PH and paid by PH to such employees) by patrons with respect to functions which generate Gross Restaurant Sales, (iii) amounts collected by PH from patrons for the account of, and for direct payment to, unrelated third parties providing services specifically for a patron's function which generate Gross Restaurant Sales, such as flowers, music and entertainment, (iv) proceeds paid as a result of an insurable loss (unless paid for the loss or interruption of business and representing payment for damage for loss of income and profits of those Restaurant operations which are intended to generate Gross Restaurant Sales), (v) proceeds of condemnation and eminent domain awards, litigation awards and settlement payments, (vi) any proceeds or other economic benefits of any borrowings or financings of PH, (vii) any proceeds or other economic benefit from any sale, exchange or other disposition of all or any part of the PH or Restaurant, including any furniture, furnishings, decorations, and equipment, or any other similar items, (viii) funds provided by PH, (ix) payments made under any warranty or guaranty and (x) any other receipts or payments that are not standard or typical in the ordinary course of operating a restaurant or that are excluded by PH in a manner consistent with the determination of gross revenues of operations of PH and its Affiliates similar to the Restaurant. Gross Restaurant Sales shall be reduced by the amount of credit card fees and over-rings, refunds and credits given, paid or returned by PH in the course of obtaining Gross Restaurant Sales. In addition to receipts from transactions occurring at the Restaurant, Gross Restaurant Sales shall include, without limitation, all receipts for food or beverages delivered from the Restaurant in satisfaction of orders therefor received away from the Restaurant and receipts for food or beverages delivered away from the Restaurant in satisfaction of orders received at the Restaurant and receipts for food or beverages delivered away from the Restaurant in satisfaction of orders received away from the Restaurant but sold, transferred or solicited with reference to the Restaurant. Notwithstanding the foregoing, Gross Restaurant Sales shall include the menu price of all food and beverages offered on a complimentary basis by PH to its customers and, unless the promotion and alternative pricing was made with the prior written consent of GRB, Gross Restaurant Sales shall include the full menu price of all food and beverages provided on a discounted basis to its customers (except that employees of PH or its Affiliates shall be entitled to a twenty (20%) percent discount off the full menu price and such twenty (20%) percent discount amount shall not be included in Gross Restaurant Sales).

"Gross Retail Sales" means all receipts or revenues of the Restaurant from the sale of merchandise computed on an accrual basis in accordance with generally accepted accounting principles consistently applied by PH, excluding only (i) federal, state and local excise, sales, use or rent taxes collected from customers from receipts which are included in Gross Retail Sales, (ii) Gross Retail Sales shall be reduced by the amount of credit card fees and over-rings, refunds and credits given, paid or returned by PH in the course of obtaining Gross Retail Sales. In addition to receipts from transactions

occurring at the Restaurant, Gross Retail Sales shall include, without limitation, all receipts for merchandise delivered from the Restaurant in satisfaction of orders therefor received away from the Restaurant and receipts for merchandise delivered away from the Restaurant in satisfaction of orders received at the Restaurant and receipts for merchandise delivered away from the Restaurant in satisfaction of orders received away from the Restaurant but sold, transferred or solicited with reference to the Restaurant. Notwithstanding the foregoing, Gross Retail Sales shall include the everyday sales price of all merchandise offered on a complimentary basis by PH to its customers and, unless the promotion was made with the prior consent of GRB, shall include the full retail price of all merchandise provided on a discounted basis to its customers (except that employees of PH or its Affiliates shall be entitled to a twenty (20%) percent discount off the full everyday sales price and such twenty (20%) percent discount amount shall not be included in Gross Retail Sales).

"Ground Lease" has the meaning set forth in Section 14.18.

"GR Restaurant Visits" has the meaning set forth in Section 7.2.

"GR US Entities" has the meaning set forth in Section 10.2.5.

"Initial Term" has the meaning set forth in Section 4.1.

"License Fee" has the meaning set forth in Section 8.1.1.

"Menu Development Services" has the meaning set forth in Section 3.4.1.

"Mortgages" has the meaning set forth in Section 14.18.

"Nevada Courts" has the meaning set forth in Section 14.10.3.

"Opening Date" has the meaning set forth in Section 4.1.

"Operating Expenses" means, for any period, (a) the actual expenses incurred during such period in operating the Restaurant in those categories listed on the Profit and Loss Statement for the Restaurant, in each case computed on an accrual basis in accordance with generally accepted accounting principles consistently applied by PH, plus (b) the License Fee for such period, plus (c) the actual expenses incurred by PH during such period for operation of the Restaurant for variable expenses not reflected on such Profit and Loss Statement (including outside hood cleaning, EVS, utilities, accounting, warehouse, receiving and maintenance services). All credits and rebates received from sponsors and/or vendors in connection with product or services used at the venue shall be a credit against Operating Expenses.

"Permanent Damage" means any damage by fire or other casualty to the PH or Restaurant (a) where the net insurance proceeds are not sufficient to restore and repair the damaged portion of the PH or Restaurant substantially to its condition and character just prior to the occurrence of such casualty or (b) where it is not reasonably practicable to restore and repair the PH or Restaurant due to restrictions under applicable Law or for other reasons beyond PH's reasonable control within three hundred sixty five (365) days from the damage, in each case as reasonably determined by PH.

"Person" means any individual, corporation, proprietorship, firm, partnership, limited partnership, limited liability company, trust, association or other entity, including any governmental authority.

"PH Marks and Materials" has the meaning set forth in Section 6.2.

"PH's Parent" means Caesars Entertainment Corporation, a corporation organized under the laws of Delaware of the United States, and its successors and assigns.

"Project Budget" has the meaning set forth in Section 3.2.2.

"Project Costs" means, all reasonable costs and expenses incurred by PH or its Affiliates prior to the Opening Date to accomplish the effective and efficient commencement of operations at the Restaurant on the Opening Date in accordance with the Project Budget and as set forth in this Agreement, including all hard and soft construction costs, the cost of all furniture, equipment and furnishings, inventories of food and beverages and other operating supplies acquired in preparation for the opening of the Restaurant, all expenses incurred by PH or any of its Affiliates in performing pre-opening services and other pre-opening functions, including expenses of business entertainment and reimbursable expenses (but excluding salary, compensation and benefits of the employees of PH or its Affiliates) and any related taxes, the cost of recruitment and related expenses for all employees of the Restaurant and the cost of pre-opening sales, marketing, advertising, promotion and publicity for the Restaurant, including all losses, expenses and reasonable attorneys' fees arising directly or indirectly from any dispute with any third party engaged to design, develop, construct or outfit the Restaurant solely.

"Recipient" has the meaning set forth in Section 14.17.1.

"Relative" means, with respect to any Person, such Person's mother, father, spouse, brother, sister and children.

"Representatives" means, with respect to any Person, such Person's employees, agents, independent contractors, representatives and Affiliates.

"Restaurant Development Services" has the meaning set forth in Section 3.2.1.

"Restaurant Venture" has the meaning set forth in Section 2.4.1.

"Rules" has the meaning set forth in Section 13.1.

"Senior Management Employee(s)" has the meaning set forth in Section 5.2.

"Substantial Damage" means any damage, other than a Permanent Damage, by fire or other casualty to the PH or Restaurant (a) that results in more than twenty percent (20%) of the area of the PH or Restaurant, as applicable, being rendered unusable, (b) where the estimated length of time required to restore PH or Restaurant, as applicable, substantially to its condition and character just prior to the occurrence of such casualty shall be in excess of one hundred eighty (180) days or (c) if the estimated cost of restoration and repair of the damage exceeds twenty percent (20%) of the then current replacement cost of the PH or Restaurant, as applicable, in each case as determined by PH in its reasonable discretion.

"Team Visits" has the meaning set forth in Section 7.2.

"Term" has the meaning set forth Section 4.1.

"Third-Party Claim" has the meaning set forth in Section 14.15.1.

"Training" has the meaning set forth in Section 5.1.2.

"Union Agreements" has the meaning set forth in Section 5.3.1.

"Unsuitable Person" is any Person (a) whose association with PH or its Affiliates could be anticipated to result in a disciplinary action relating to, or the loss of, inability to reinstate or failure to obtain, any registration, application or license or any other rights or entitlements held or required to be held by PH or any of its Affiliates under any United States, state, local or foreign laws, rules or regulations relating to gaming or the sale of alcohol, (b) whose association or relationship with PH or its Affiliates could be anticipated to violate any United States, state, local or foreign laws, rules or regulations relating to gaming or the sale of alcohol to which PH or its Affiliates are subject, (c) who is or might be engaged or about to be engaged in any activity which could adversely impact the business or reputation of PH or its Affiliates, or (d) who is required to be licensed, registered, qualified or found suitable under any United States, state, local or foreign laws, rules or regulations relating to gaming or the sale of alcohol under which PH or any of its Affiliates is licensed, registered, qualified or found suitable, and such Person is not or does not remain so licensed, registered, qualified or found suitable.

"USCIS" has the meaning set forth in Section 5.6.

2. APPOINTMENT; CONDITIONS; EXCLUSIVITY; CERTAIN RIGHTS.

2.1 Appointment. On the terms and subject to the conditions set forth in this Agreement, PH hereby appoints GRB and Gordon Ramsay and his team, and GRB and Gordon Ramsay and/or his team, as applicable, hereby agree, to perform those services and fulfill those obligations set forth herein as to be performed or fulfilled by GRB, Gordon Ramsay and/or his team, as applicable (collectively, the "Services"). In addition to the terms and conditions more particularly set forth in this Agreement, GRB and Gordon Ramsay each agrees to perform or cause to be performed the Services (a) in good faith and using sound business practice, due diligence and care, (b) using, at a minimum, the same degree of skill and attention GRB, Gordon Ramsay or their Affiliates, as the case may be, use in performing the same or similar services for its, his or their own accounts or the accounts of others (and in no event less than a reasonable degree of skill and attention), and (c) with sufficient resources and qualified personnel as are reasonably required to perform the Services in accordance with the standards set forth in this Agreement.

2.2 Conditions to Agreement. Notwithstanding anything to the contrary contained herein, the rights and obligations of each party under this Agreement (other than the obligations under Section 2.3, 2.4 and 9.1 and Article 14), is conditioned upon (which conditions may be waived by PH in its sole and absolute discretion): (a) submission by or on behalf of Gordon Ramsay and GRB to PH of all information requested by PH regarding Gordon Ramsay, GRB, their respective Affiliates and their respective directors, officers, employees, agents, representatives and other associates (collectively, the "GR Associates") to ensure that they are not an Unsuitable Person; and (b) PH being satisfied, in its sole discretion, that no GR Associate is an Unsuitable Person.

2.3 Exclusivity.

2.3.1 (i) Each of Gordon Ramsay and GRB covenants and agrees as to himself or itself that, at all times during the Term, each of Gordon Ramsay and GRB, respectively, will not and will cause its Affiliates not to, directly or indirectly, except as contemplated by this Agreement or any other Agreement with PH or any of its Affiliates, use, or permit or license or offer or agree to permit or license any other Person to use, any GR Mark, GRB Mark or General GR Materials within Clark County, Nevada in connection with the operation of a restaurant substantially similar to the Restaurant, including any Gordon Ramsay burger centric or burger themed or similar restaurant, including a "Fat Cow Burger" (all such substantially similar restaurants, "Competing Concepts"), excluding any operation for PH or its Affiliates; and (ii) Gordon Ramsay covenants and agrees that, at all times during the Term, Gordon Ramsay will not and will cause his Affiliates not to, directly or indirectly, except as contemplated by this Agreement or any other Agreement with PH or any of its Affiliates, engage in or become affiliated or

associated with, or offer or agree to become engaged in or affiliated or associated with, any activities, business or operations involving any Competing Concept which is located within Clark County, Nevada, including as an owner, investor, operator, director, officer, manager, agent, consultant, licensor or employee of any such Competing Concept (collectively, clauses (i) and (ii), the "Exclusivity Provisions"). For purposes of clarification, nothing in the definition of Competing Concepts shall be deemed to include Gordon Ramsay's current concepts "Fat Cow" or "Hell's Kitchen", so long as such concepts do not have Gordon Ramsay's name form part of the core branding of these concepts, i.e. is not used in its name or moniker.

2.3.2 If this Agreement is terminated by PH prior to the end of the Term originally stated herein, and either Gordon Ramsay or GRB is in default or breach of this Agreement at the time of such termination, the Exclusivity Provisions shall continue for a period of eighteen (18) months following such termination.

2.3.3 Notwithstanding the foregoing, owning the securities of any company if the securities of such company are listed for trading on a national stock exchange or traded in the over-the-counter market and the combined Gordon Ramsay, GRB and their respective Affiliates' holdings therein represent less than five percent (5%) of the total number of shares or principal amount of other securities of such company outstanding shall not be deemed violative of this Section 2.3.

2.3.4 Notwithstanding the foregoing: (i) nothing in this Section 2.3 shall preclude (a) the marketing or sale of any products branded with any GRB Marks or any marketing or promotion in Clark County, Nevada of any products or services of Gordon Ramsay or GRB that are sold outside of this Agreement (and not in contravention of the Exclusivity Provisions) or (b) the marketing within Clark County, Nevada of other Gordon Ramsay or GRB (or Affiliates of either) restaurants and (ii) PH shall have no rights with respect to the sale of any products (other than any food products used in the Restaurant) branded with any GRB Marks or provision of any services under the GRB Marks, other than as specifically set forth in this Agreement.

2.4 Rights of First Refusal.

2.4.1 Gordon Ramsay covenants and agrees that, at all times during the Term, he will not and will cause his Affiliates not to, directly or indirectly, engage in or become affiliated or associated with, or offer or agree to become engaged in or affiliated or associated with, any activities, business or operations involving any restaurant or bar (including any lounge, nightclub, ultra lounge or similar operation), including as an owner, investor, operator, director, officer, manager, agent, consultant, licensor or employee of any such restaurant or bar, if such restaurant or bar is or is to be (a) located within Clark County (a "Restaurant Venture") or (b) located within a casino or other gaming facility within a twenty-five (25) mile radius of any existing or publicly announced hotel or gaming facility owned or operated (or to be owned or operated) by PH or any of its Affiliates outside of Clark County (also a "Restaurant Venture"), except after compliance with this Section 2.4.

2.4.2 Before Gordon Ramsay or any of his Affiliates engages in or becomes affiliated or associated with, or offers or agrees to become engaged in or affiliated or associated with, any Restaurant Venture, Gordon Ramsay shall provide PH with an offer (available to PH and/or its Affiliates), in writing, to participate in such Restaurant Venture, which offer shall set forth reasonable detail regarding the proposed Restaurant Venture. If PH (or its designated Affiliate) indicates in writing within fifteen (15) days after receipt of such offer its interest in considering such opportunity, Gordon Ramsay and/or his team, as applicable, shall or shall cause its applicable Affiliates to enter into exclusive discussions, negotiations and due diligence with PH (or its designated Affiliate) for the succeeding thirty (30) days to determine if mutually agreeable terms of participation in the Restaurant Venture can be

reached. During such period, Gordon Ramsay and/or his team shall or shall cause its applicable Affiliates to provide PH (or its designated Affiliate) with all reasonable supporting or other documents it may reasonably request with respect to the Restaurant Venture.

2.4.3 In addition, before Gordon Ramsay or GRB, or any of their respective Affiliates engages in or becomes affiliated or associated with, or offers or agrees to become engaged in or affiliated or associated with, any other restaurant using the GRB Marks in any location ("BURGR Gordon Ramsay Restaurant"), Gordon Ramsay and GRB shall provide PH with an offer (available to PH and/or its Affiliates), in writing, to participate in such BURGR Gordon Ramsay Restaurant, which offer shall set forth reasonable detail regarding the proposed BURGR Gordon Ramsay Restaurant. If PH (or its designated Affiliate) indicates in writing within fifteen (15) days after receipt of such offer its interest in considering such opportunity, Gordon Ramsay and/or GRB, as applicable, shall or shall cause its applicable Affiliates to enter into exclusive discussions, negotiations and due diligence with PH (or its designated Affiliate) for the succeeding thirty (30) days to determine if mutually agreeable terms of participation in the BURGR Gordon Ramsay Restaurant can be reached. During such period, Gordon Ramsay and/or GRB shall or shall cause its applicable Affiliates to provide PH (or its designated Affiliate) with all reasonable supporting or other documents it may reasonably request with respect to the BURGR Gordon Ramsay Restaurant. As used in all of Section 2.4, the word "exclusive" does not apply to the owner or operator of the facility where the Restaurant Venture or the BURGR Gordon Ramsay Restaurant is to be located or to Gordon Ramsay's or GRB's (or their respective Affiliates') investors, potential investors, investor advisors, investment bankers or the like with whom each of Gordon Ramsay or GRB (or their Affiliates) may have discussions, negotiations or be carrying out due diligence on the Restaurant Venture or the BURGR Gordon Ramsay Restaurant. In addition, Section 2.4 shall not apply to any deal that Gordon Ramsay (or his Affiliates) is licensing to a third party or any deal that GRB is licensing the GRB Marks to a third party.

2.4.4 For the avoidance of doubt, the following shall not be considered to be violative of the provisions of this Section 2.4: (i) the continued operation of Gordon Ramsay at the London West Hollywood (in Los Angeles, California), Gordon Ramsay at the London (in New York, New York), maze by Gordon Ramsay at the London (in New York, New York), Gordon Ramsay at Powerscourt (in Dublin, Ireland), Gordon Ramsay au Triannon (in Paris, France), La Veranda (in Paris, France), Gordon Ramsay at Castel Monastero (in Siena, Italy), Gordon Ramsay at Forte Village (in Sardinia, Italy), maze (in Doha, Qatar), Verre (in Deira, Dubai), Gordon Ramsay at the Conrad Tokyo (in Tokyo, Japan), Cerise (in Tokyo, Japan), Laurier Gordon Ramsay (in Montreal Canada), or maze (in Melbourne, Australia) (the "Existing Restaurants") or (ii) the opening of another location of any Existing Restaurant (i.e., with the same name, concept and menu) within a twenty-five (25) mile radius of its current location other than within a hotel, casino or similar establishment. The opening of another location of any Existing Restaurant (A) within a twenty-five (25) mile radius of its current location within a hotel, casino or similar establishment or (B) outside a twenty-five (25) mile radius of its current location shall be subject to the provisions of this Section 2.4 if it otherwise falls under the definition of "Restaurant Venture".

2.5 PH Exclusivity. PH covenants and agrees that, at all times during the Term, PH will not and will cause its Affiliates not to, directly or indirectly, except as contemplated by this Agreement or any other Agreement with Gordon Ramsay, GRB or any of their respective Affiliates open a substantially similar burger centric, burger themed, pub, gastro tavern or similar restaurant within the hotel portion of PH; provided, that this Section 2.5 shall not apply to the operation of any restaurant anywhere in the hotel portion of PH where, as of the date of this Agreement, there is a gastro pub; provided further, that such restaurant may not be redesigned, rebranded or otherwise modified to be more similar to the Restaurant than it is at the date of this Agreement. For the avoidance of doubt, this Section 2.5 shall not apply to (i) any other type of bar, café or tavern or (ii) any casino or other gaming area or any adjacent facility or structure (including the Miracle Mile Shops).

3. RESTAURANT LOCATION, DESIGN, DEVELOPMENT AND OPERATION.

3.1 General. The Restaurant shall be comprised of that approximate square footage indicated on Exhibit A attached hereto. The parties acknowledge that with the consent of the parties, the design of the Restaurant and the Restaurant Premises may change following the execution of this Agreement as a result of conditions of construction, budgetary constraints or other reasons provided that the approximate square footage and placement of the Restaurant within the Restaurant Premises as designed and constructed shall not be materially different than that which is depicted on Exhibit A. At all times during the Term and thereafter PH shall retain all right, title and interest in and to the Restaurant Premises.

3.2 Initial Design and Construction.

3.2.1 Planning. Subject to all of the terms and conditions more particularly set forth herein, PH shall, after consultation with GRB, be solely responsible for the initial design, development, construction and outfitting of the Restaurant, including all furniture, fixtures, equipment, inventory and supplies (the "Restaurant Development Services"); provided, however, that PH, after consulting with GRB and considering all reasonable recommendations from GRB, shall have final approval with respect to all aspects of same but shall at all times act reasonably. PH shall appoint an individual or individuals, who may be changed from time to time by PH, acting in its sole and absolute discretion, to act as PH' liaison with GRB in the design, development, construction and outfitting of the Restaurant. Restaurant Development Services, and meetings with respect to same, shall take place in Las Vegas, Nevada.

3.2.2 Budgeting. PH shall be solely responsible for all proposed budgets for the Project Costs (each, a "Project Budget"), but PH shall afford GRB the reasonable opportunity to review each such Project Budget and make reasonable recommendation on same, based on the experience of GRB, prior to PH's adoption and implementation of any such Project Budget. After giving consideration to all reasonable recommendations made by GRB regarding the Project Budget, PH shall establish, control, and amend from time to time as necessary, all in PH's sole discretion, the Project Budget for the initial design, development, construction, and outfitting of the Restaurant, except to the extent the same contain any GRB Marks.

3.2.3 Implementation of Initial Design and Construction. PH shall be solely responsible for hiring, retaining and authorizing the performance of services by any and all design, development, construction and other professionals engaged in the initial design, development, construction and outfitting of the Restaurant. At all times during the Term and thereafter, PH shall retain all right, title and interest in and to the furniture, fixtures, equipment, inventory, supplies and other tangible and, except as otherwise provided herein, intangible assets used or held for use in connection with the Restaurant, except to the extent the same contain any GRB Marks.

3.2.4 Costs of Initial Design and Construction. The current Project Budget is \$5,100,000, to be provided solely by PH (the "Initial Capital Investment").

3.3 Subsequent Refurbishment, Redesign and Reconstruction of the Restaurant. If, after the Opening Date, PH determines that the Restaurant requires any additional capital expenditures, PH is solely responsible for any capital expenditures.

3.4 Menu Development.

3.4.1 Menu Development. Gordon Ramsay or members of his team shall develop the initial food and beverage menus of the Restaurant, and the recipes for same, and thereafter, Gordon

Ramsay or members of his team shall revise the food and beverage menus of the Restaurant, and the recipes for same (the "Menu Development Services"). PH shall have the reasonable opportunity to review any food and beverage menus prior to their implementation and make reasonable recommendations to same based upon the proposed costs and PH's experience with the Las Vegas, Nevada fine-dining industry. After consulting with and giving full and proper consideration to all reasonable advice and reasonable recommendations from Gordon Ramsay, PH shall establish the pricing of any food and beverage menus, in its sole and absolute but reasonable discretion. Menu Development Services, and meetings with respect to same, shall take place by conference call at times and on dates mutually agreed to by GRB, Gordon Ramsay and PH.

3.4.2 Menu Standards. GRB agrees (a) to use commercially reasonable efforts to ensure that the food and beverage menus of the Restaurant, and the recipes for the same, shall be of a nature and cost that is consistent with the nature and cost menu offerings of casual up-scale restaurants in Las Vegas, Nevada and (b) the food menu of the Restaurant shall feature primarily specialty burger dishes.

3.5 General Operation of the Restaurant. Unless expressly provided herein to the contrary and subject to the terms of this Agreement, PH shall be solely responsible for:

3.5.1 managing the operations, business, finances and Employees of the Restaurant on a day-to-day basis;

3.5.2 maintaining the Restaurant;

3.5.3 developing and enforcing employment and training procedures, marketing plans, pricing policies and quality standards of the Restaurant; and

3.5.4 supervising the use of the food and beverage menus and recipes developed by Gordon Ramsay or his team pursuant to the terms of Section 3.2.

3.6 Merchandise.

3.6.1 Upon PH's request, GRB shall use commercially reasonable efforts to (a) introduce PH to such authorized manufacturers and suppliers of Gordon Ramsay merchandise for the purpose of purchasing and selling such merchandise in the Restaurant and (b) facilitate such services, provided that all such sales shall be included within Gross Restaurant Sales. Unless otherwise agreed by GRB, all merchandise sold in the Restaurant shall be purchased from an authorized manufacturer or supplier of Gordon Ramsay, provided that GRB shall consent to other manufacturers and suppliers sourced by PH so long as the merchandise is of at least equal quality to that provided by Gordon Ramsay's manufacturer or supplier and the price is equal to or less than the price charged by Gordon Ramsay's manufacturer or supplier.

3.6.2 No operating supplies bearing, based on or containing GRB Marks or General GR Materials, including all menus, wine lists, business cards, tableware, uniforms and napkins, shall be produced or used in connection with the Restaurant without prior written approval of Gordon Ramsay (or a member of his team) or GRB, as the case may be, which shall not be unreasonably withheld, conditioned or delayed. Gordon Ramsay (or a member of his team) or GRB, as the case may be, shall, give notice of approval or rejection (with reasons) within ten (10) days following PH's written request for approval.

3.6.3 In the event that PH wishes to produce merchandise of any kind bearing, based on or containing the GRB Marks or General GR Materials or otherwise relating to the Restaurant it shall provide full details of the same to Gordon Ramsay and GRB and the parties shall negotiate in relation thereto and enter into a separate agreement in connection therewith in the event that an agreement is reached.

3.7 Meetings and Personal Appearances. Whenever scheduling any meeting or personal appearance contemplated by this Agreement, PH shall make commercially reasonable efforts to take into account the other then existing commitments of Gordon Ramsay and Rowen Seibel and give Gordon Ramsay and Rowen Seibel reasonable prior notice as far in advance as is possible, of the contemplated date, time and place of each scheduled meeting or appearance. If advised of a conflict, PH shall make commercially reasonable efforts to reschedule such meeting or appearance to a date and time closest to the initially proposed scheduled appearance date, it being understood that all such scheduling shall be made by PH based upon the best interest of the Restaurant and Gordon Ramsay and Rowen Seibel shall endeavor to make commercially reasonable efforts to meet the appearance schedule proposed by PH subject to previously scheduled commitments.

3.8 Additional Obligations. Each of PH, Gordon Ramsay and GRB warrants and undertakes to the other parties that it shall:

3.8.1 at all times (a) fully comply with all laws, statutes, ordinances, regulations, promulgations and mandates applicable to its obligations hereunder and the operation of the Restaurant and (b) maintain all applicable business licenses and other licenses and permits relating to its business operations or its obligations hereunder, and in each case any failure to do so shall constitute a breach of this Agreement; and

3.8.2 perform its duties hereunder with reasonable care and skill and shall cultivate and maintain good relations with customers of the Restaurant in accordance with sound commercial principles.

4. TERM.

4.1 Term. The initial term of this Agreement shall commence on the Effective Date and shall expire on that date that is ten (10) years from the date on which the Restaurant first opens to the general public for business (the "Opening Date"), unless extended by the parties or unless earlier terminated pursuant to the terms hereof (the "Initial Term"). Upon the mutual agreement of PH and GRB, the term of this Agreement shall be extended for one additional five (5) year term (together with the Initial Term, the "Term"), which shall be on all of the same terms and conditions as contained herein. Thereafter, there shall be no additional extensions of the term of this Agreement.

4.2 Termination.

4.2.1 For Convenience. At any time following the third (3rd) anniversary of the Opening Date, this Agreement may be terminated by PH upon six (6) month's written notice to GRB and Gordon Ramsay specifying the date of termination.

4.2.2 Death, Disability or Non-Involvement of Gordon Ramsay. This Agreement may be terminated by PH upon written notice to GRB and Gordon Ramsay having immediate effect if (a) Gordon Ramsay dies, (b) Gordon Ramsay suffers a disability, including any physical or mental condition, which impairs the ability of Gordon Ramsay to render, in a timely manner, substantially all of Gordon

Ramsay's covenants, agreements and obligations hereunder for a period of four (4) consecutive months or six (6) months in any twelve (12) month period, or (c) Gordon Ramsay fails on two consecutive occasions to appear in Las Vegas, Nevada to perform all of the GR Promotional Events and GR Restaurant Visits as required pursuant to the terms of this Agreement (provided that he was given ample notice of such and afforded an opportunity to perform and does not so perform on other mutually acceptable dates subject to Gordon Ramsay being prevented from attending due to force majeure or sickness).

4.2.3 Sales Performance. At any time during the sixty (60) days following the third (3rd) anniversary of the Opening Date and the sixty (60) days following the seventh anniversary of the Opening Date, this Agreement may be terminated by PH by written notice to GRB specifying the effective date of termination if (a) in the case of termination following the third (3rd) anniversary of the Opening Date, the Gross Restaurant Sales for the twelve months prior to such anniversary are not at least Eleven Million Five Hundred Thousand Dollars (\$11,500,000.00) or (b) in the case of termination following the seventh (7th) anniversary of the Opening Date, the Gross Restaurant Sales for the twelve (12) months prior to such anniversary are not at least Twelve Million Five Hundred Dollars (\$12,500,000.00).

4.2.4 Breach of Standards. This Agreement may be terminated by PH upon written notice to GRB and Gordon Ramsay having immediate effect if, following a material breach of Section 11.1 of this Agreement, PH sends written notice of such breach to GRB and Gordon Ramsay and such material breach is not cured within thirty (30) days after receipt of such notice.

4.2.5 Unsuitability. This Agreement may be terminated by PH upon written notice to GRB and Gordon Ramsay having immediate effect as contemplated by Section 11.2.

4.2.6 Condemnation and Casualty. This Agreement may be terminated by PH upon written notice to GRB and Gordon Ramsay having immediate effect as contemplated by Article 12.

4.2.7 Material Breach.

(a) This Agreement may be terminated by PH upon written notice to GRB and Gordon Ramsay having immediate effect if, following a material breach of this Agreement by Gordon Ramsay or GRB, PH sends written notice of such material breach to GRB and Gordon Ramsay specifying in reasonable detail, the facts and circumstances underlying the claimed breach (including the provision(s) of the Agreement claimed to have been breached) and Gordon Ramsay or GRB, as applicable, fails to cure such material breach within thirty (30) days after receipt of such notice; provided that if GRB or Gordon Ramsay shall have taken steps reasonably anticipated to cure such breach within such thirty (30) day period, PH shall not be permitted to terminate the Agreement unless such cure is not completed within a reasonable time thereafter.

(b) This Agreement may be terminated by GRB upon written notice to PH having immediate effect if, following a material breach of this Agreement by PH, GRB sends written notice of such material breach to PH specifying in reasonable detail, the facts and circumstances underlying the claimed breach (including the provision(s) of the Agreement claimed to have been breached) and PH fails to cure such material breach within thirty (30) days after receipt of such notice for non-monetary breaches by PH (provided that if PH shall have taken steps reasonable anticipated to cure such breach

within such thirty (30) day period, PH shall not be permitted to terminate the Agreement unless such cure is not completed within a reasonable time thereafter) and within five (5) days after written notice is given to PH for monetary breaches by PH (it being understood that PH' failure to pay any amount disputed in good faith shall not entitle Gordon Ramsay to terminate this Agreement).

4.2.8 Bankruptcy, etc.

(a) This Agreement may be terminated by PH upon written notice to GRB and Gordon Ramsay having immediate effect if Gordon Ramsay or GRB (i) becomes insolvent or admits in writing its inability to pay its debts as they become due, (ii) has instituted against it a proceeding seeking a judgment of insolvency, suspension of payment or bankruptcy, or a petition is presented against it for its winding up or liquidation, in each case that is not dismissed within sixty (60) days, (iii) institutes a proceeding seeking a judgment of insolvency, suspension of payment or bankruptcy, or files a petition for its winding up or liquidation, (iv) makes a general assignment for the benefit of its creditors, (v) seeks or becomes subject to the appointment of a receiver over all or substantially all of its assets, or (vi) any analogous procedure or step is taken in any jurisdiction.

(b) This Agreement may be terminated by GRB upon written notice to PH having immediate effect if PH (i) becomes insolvent or admits in writing its inability to pay its debts as they become due, (ii) has instituted against it a proceeding seeking a judgment of insolvency, suspension of payment or bankruptcy, or a petition is presented against it for its winding up or liquidation, in each case that is not dismissed within sixty (60) days, (iii) institutes a proceeding seeking a judgment of insolvency, suspension of payment or bankruptcy, or files a petition for its winding up or liquidation, (iv) makes a general assignment for the benefit of its creditors, (v) seeks or becomes subject to the appointment of a receiver over all or substantially all of its assets, or (vi) any analogous procedure or step is taken in any jurisdiction.

4.3 Effect of Expiration or Termination.

4.3.1 Termination of Obligations; Survival. Upon expiration or termination of this Agreement, there shall be no liability or obligation on the part of any party with respect to this Agreement, other than that such termination or expiration shall not (a) relieve any party of any liabilities resulting from any breach hereof by such party on or prior to the date of such termination or expiration, (b) relieve any party of any payment obligation arising prior to the date of such termination or expiration, or (c) affect any rights arising as a result of such breach or termination or expiration. The provisions of this Section 4.3 and Sections 2.3.2, 6.2, 6.6, the last sentence of Section 12.2.2 and Articles 13 and 14 (other than Section 14.16) shall survive any termination or expiration of this Agreement.

4.3.2 Certain Rights of PH Upon Expiration or Termination. Upon expiration or termination of this Agreement:

(a) PH shall cease operation of the Restaurant and its use of any GRB Marks and GR Materials; provided, however, that (i) in the event of an

early termination of this Agreement, other than pursuant to Section 4.2.2, PH shall be entitled to operate the Restaurant and use the License for one hundred twenty (120) days from such termination to orderly and properly wind-up operations of the Restaurant; and (ii) in the event of an early termination of this Agreement pursuant to Section 4.2.2, PH shall be entitled to operate the Restaurant and use the License for up to nine (9) months from such termination to orderly and properly reconcept or wind-up operations of the Restaurant; provided that in the event of a termination pursuant to clause (i) or (ii) during the applicable post-termination period during which PH is operating the Restaurant, PH shall continue to be obligated to pay GRB all amounts due GRB hereunder that accrue during such period in accordance with the terms of this Agreement as if this Agreement had not been terminated;

(b) PH shall retain all right, title and interest in and to the Restaurant Premises except for the GRB Marks and General GR Materials and any personal property containing any GRB Marks;

(c) PH shall retain all right, title and interest in and to the furniture, fixtures, equipment, inventory, supplies and other tangible and intangible assets used or held for use in connection with the Restaurant, except as expressly provided in Section 4.3.2;

(d) PH shall retain all right, title and interest in and to PH Marks and Materials; and

(e) PH shall have the right, but not the obligation, immediately or at any time after such expiration or termination, to operate a restaurant in the Restaurant Premises; provided, however, such restaurant shall not use the Restaurant's food and beverage menus or recipes developed by GRB and/or Gordon Ramsay or use any of the GRB Marks or General GR Materials.

4.3.3 Certain Rights of Gordon Ramsay/GRB Upon Expiration or Termination. Upon expiration or termination of this Agreement:

(a) In the case of termination by PH pursuant to Section 4.2.1, PH shall pay to GRB the Early Termination Payment as a lump-sum payment within five (5) business days after the effective date of such termination; and

(b) Subject to Section 4.3.2(a), Gordon Ramsay and/or GRB shall retain all right, title and interest in and to the GRB Marks and General GR Materials and all right title and interest in and to the Restaurant's food and beverage menus and recipes developed by GRB and/or Gordon Ramsay.

5. RESTAURANT EMPLOYEES.

5.1 General Requirements.

5.1.1 Employees. Subject to the terms of this Article 5, after consulting with and giving full and proper consideration to all reasonable recommendations of GRB, PH shall be responsible for, and shall have final approval with respect to, hiring, training, managing, evaluating, promoting,

disciplining and firing all kitchen and front-of-house management and staff of the Restaurant (collectively, the "Employees"). Notwithstanding anything herein to the contrary, all Employees, including all Senior Management Employees, shall be employees of PH and shall be expressly subject to (a) PH's human resources policies and procedures and hiring requirements in existence as of the Effective Date and as modified by PH from time to time during the Term, and (b) the compliance committee requirements applicable to PH and its Affiliates, as more particularly set forth in Section 11.2 hereof.

5.1.2 Qualified Training by PH. At PH's option, exercisable in its sole discretion, all applicants for Employee front-of-house positions that require personal contact with guests of the Restaurant, as well as all cook, pantry, pastry, bakery and other skilled kitchen positions, shall be required to undergo specialized training (the "Training") and, upon the culmination of such specialized training, pass a test reasonably related to the Training in order to be qualified as an Employee. The Training shall be conducted by PH on the Employee's own time and at the Employee's own expense. At PH's option, exercisable in its sole discretion, the Training and related test may only be required of individuals who are employees of PH at the time of such individual's application for a position as an Employee.

5.2 Senior Management Employees. GRB shall advise PH as to those individuals whom it recommends to be hired for the following positions at the Restaurant and shall, or shall cause his team to, use commercially reasonable efforts to give such advice to be provided within the time frames set forth below.

(a) One full-time equivalent Executive Chef (no later than sixty (60) days before the Opening Date);

(b) One full-time equivalent General Manager (no later than forty-five (45) days before the Opening Date);

(c) Two full-time equivalent Assistant Chefs (no later than thirty (30) days before the Opening Date); and

(d) Two full-time equivalent Assistant Managers (no later than twenty (20) days before the Opening Date).

The initial and any successor Executive Chef, General Manager, Assistant Chefs and Assistant Managers shall be referred to collectively, as the "Senior Management Employees" and individually, a "Senior Management Employee", with the understanding that said designation is for the purposes of reference for this document only and shall not be deemed to create a requirement or expectation of any particular level of compensation or benefits that may otherwise be available to individuals employed by PH having such employment designation. Subject to the terms of this Article 5, after consulting with and giving full and proper consideration to all reasonable recommendations of GRB, PH shall be responsible for, and shall have final approval with respect to, hiring, training, managing, evaluating, promoting, disciplining and firing Senior Management Employees (and any additional or replacement Senior Management Employees as reasonably required by PH from time to time). The parties acknowledge and agree that PH is under no obligation to hire any individual recommended pursuant to this Section 5.2.

5.3 Union Agreements.

5.3.1 Agreements. Each of Gordon Ramsay and GRB acknowledges and agrees that all of PH's agreements, covenants and obligations and all of Gordon Ramsay's and/or GRB's rights and agreements contained herein are subject to the provisions of any and all collective bargaining agreements and related union agreements to which PH or any of its Affiliates is or may become a party and that are or

may be applicable to the Employees (as the same may be amended or supplemented from time to time, collectively, the "Union Agreements"). Each of Gordon Ramsay and GRB agrees that all of their agreements, covenants and obligations hereunder, including those obligations to train certain Employees, shall be undertaken in such manner as to be in accordance with and to assist and cooperate with PH's obligation to fulfill its obligations contained in the Union Agreements; provided, that PH now and hereafter shall advise Gordon Ramsay and GRB of the obligations contained in said Union Agreements that are applicable to Employees. Notwithstanding the foregoing, in no event shall Gordon Ramsay or GRB be deemed a party to any such Union Agreement whether by reason of this Agreement, the performance of its obligations hereunder or otherwise.

5.3.2 Amendments. Each of Gordon Ramsay and GRB acknowledges and agrees that from time to time during the Term, PH may negotiate and enter into amendments and supplements to the Union Agreements. Each Union Agreement, as so amended or supplemented, may include those provisions agreed to by and between the applicable union and PH, in its sole discretion, including provisions for (a) notifying then-existing employees of PH in the bargaining units represented by the applicable union of employment opportunities in the Restaurant, (b) preferences in training opportunities for such then-existing employees, (c) preferences in hiring of such then-existing employees, if such then-existing employees are properly qualified, and (d) other provisions concerning matters addressed in this Section 5.3.

5.3.3 Conflicts. In the event any agreement, covenant, obligation or right of a party contained herein is, or at any time during the Term shall be, prohibited pursuant to the terms of any Union Agreement, the applicable party shall be relieved of such agreement, covenant, obligation or right, with no continuing or accruing liabilities of any kind, and such agreement, covenant, obligation or right shall be deemed to be separate and severable from the other portions of this Agreement, and the other portions shall be given full force and effect. In the event any agreement, covenant, obligation or right under this Agreement is severed from this Agreement pursuant to this Section 5.3.3, the parties shall thereafter cooperate in good faith to modify this Agreement to provide the parties with continuing agreements, covenants, obligations and rights that are consistent with the requirements and obligations of this Agreement (including the economic provisions contained herein), such Union Agreement and applicable law, rules and regulations.

5.4 Training Support.

5.4.1 Pre-Opening Training. For the period prior to the Opening Date, GRB shall advise PH as to the training GRB recommends be provided to the Senior Management Employees, including working methods, culinary style, culinary philosophy, standard of service, marketing techniques and customer service. After consulting with and giving full and proper consideration to all reasonable recommendations of GRB and/or its team, PH shall be responsible for, and shall have final approval with respect to, training Senior Management Employees and other Employees.

5.4.2 Refresher Training. As and if reasonably requested by PH from time to time during the Term, GRB shall advise PH as to the training GRB recommends be provided for refresher training of such appropriate kitchen and front-of-house Employees as reasonably selected by PH, including training with respect to any new food and beverage menus and recipes therefore developed and implemented from time to time during the Term. After consulting with and giving full and proper consideration to all reasonable recommendations of GRB and/or its team, PH shall be responsible for, and shall have final approval with respect to such refresher training.

5.5 Evaluations. As reasonably requested by PH from time to time during the Term but not more than twice in any one (1) year during the Term, GRB shall be entitled to review, approve and make

recommendations with respect to the annual evaluations of the Senior Management Employees as conducted by PH, and shall participate in such review, approval and recommendation process in the event PH's request coincides with any GR Promotional Visit, GR Restaurant Visit or Additional GR Restaurant Visit and Gordon Ramsay's schedule otherwise permits; provided, however, PH shall have final approval with respect to all aspects of same. Such evaluation services, and meetings with respect to same, shall take place in Las Vegas, Nevada after reasonable advance notice.

5.6 Employment Authorization. PH shall be solely responsible for applying for, and shall be solely responsible for all costs and expenses related to obtaining (with the understanding that said costs shall be deemed to be an Operating Expense of the Restaurant), any work authorizations from the United States Citizenship and Immigration Services, a Bureau of the United States Department of Homeland Security ("USCIS"), that may be required in order for the Senior Management Employees to be employed by PH at the Restaurant; provided, however, each such Employee shall be required to cooperate with PH with respect to applying for such work authorization and shall be required to diligently provide to PH or directly to USCIS, as applicable, all information such Employee is required to provide in support of the application for such work authorization; provided further, however, GRB expressly acknowledges that, in the event that PH is unable to reasonably obtain such work authorization for any Employee, the offer of employment for such Employee shall be revoked.

6. LICENSE.

6.1 Marks and Materials. Each of Gordon Ramsay and GRB represents and warrants to PH that Gordon Ramsay and/or GRB is and at all times during the Term will be the owner of any GRB Marks and General GR Materials as contemplated by this Agreement and possesses and at all times during the Term will possess the necessary right to license the GRB Marks and General GR Materials to PH pursuant to this Agreement, free and clear of any restrictions except those imposed by this Agreement. Notwithstanding the foregoing, the parties acknowledge that the GRB Marks have not yet been registered and that Gordon Ramsay's Affiliate is proceeding to register the GRB Marks and license the same to GRB.

6.2 Ownership.

6.2.1 By GRB or Gordon Ramsay. PH acknowledges and agrees that GRB is the owner of the GRB Marks and the General GR Materials and any modification, adaptation, improvement or derivative of or to the foregoing. PH acknowledges and agrees and that all use of the GRB Marks and General GR Materials (including any goodwill generated by such use) shall inure to the benefit of GRB and, except for the limited License set forth in this Agreement PH shall not have or obtain any right, title or interest in or to any of the GRB Marks or General GR Materials. Notwithstanding the foregoing, each of Gordon Ramsay and GRB acknowledges and agrees that PH shall own all copyright and other rights, title and interest in and to all materials described in Section 6.2.2(ii) below, save to the extent that such materials use or contain any or all of the GRB Marks or General GR Materials and, in addition to the rights granted by copyright, PH may use such materials and the GRB Marks or General GR Materials in promotional pieces listing, indicating or depicting people or entities that have or have had an appearance, relationship or other connection to PH or any of its Affiliates. If and to the extent that PH has or comes to have any right, title or interest in any intellectually property rights in the GRB Marks or General GR Materials or any modification, adaptation, improvement or derivative of or to the foregoing, PH hereby assigns to Gordon Ramsay and GRB all such intellectual property rights.

6.2.2 By PH. Each of Gordon Ramsay and GRB acknowledges and agrees that PH shall own: (i) any works, trade names, trademarks, designs, trade dress, service names and service marks, and registrations thereof and applications for registration thereof, and all works of authorship, programs,

techniques, processes, formulas, developmental or experimental work, work-in-process, methods or trade secrets and all other materials, work product, intangible assets or other intellectual property rights created or developed by PH for use in association with the Restaurant except for the GRB Marks or General GR Materials and except for any modification, adaptation, improvement or derivative thereto or as otherwise provided in Section 6.2.1; and (ii) any materials that that are created by any party pursuant to this Agreement in which the GRB Marks or the General GR Materials are embodied or incorporated, including all photographic or video images, all promotional materials produced in accordance with the provisions of Article 7 hereof and all marketing materials produced in accordance with the provisions of Article 9 hereof (clauses (i), and (ii), collectively, the "PH Marks and Materials"). Each of Gordon Ramsay and GRB acknowledges and agree that neither Gordon Ramsay nor GRB shall have or obtain any right, title or interest in or to any of the PH Marks and Materials. Notwithstanding the foregoing, except as expressly provided in this Agreement, PH shall not acquire any rights in the GRB Marks or General GR Materials included or embedded in any of the PH Marks and Materials.

6.3 Intellectual Property License. Subject to section 6.1 and to the payment of the License Fee and compliance with the terms of this Agreement, each of Gordon Ramsay and GRB as necessary hereby grants to PH and its Affiliates a non-exclusive, non-transferable, limited, non-sublicensable right and license, during the Term (the "License"), to use and employ GRB Marks and the General GR Materials solely on and in connection with the operation of the Restaurant in the Restaurant Premises and the marketing and promotion thereof, and in connection with the marketing, promotion and retail sale of certain products in the Restaurant Premises as is contemplated in Section 3.4 under the terms and conditions set forth in this Agreement. Each of Gordon Ramsay and GRB shall, at PH's reasonable request and PH's sole but reasonable cost and expense, provide information or documents possessed by Gordon Ramsay or GRB, and execute documents, that are necessary for PH and its Affiliates to exercise their rights under the License. Each of Gordon Ramsay and GRB represents and warrants to PH that, if Gordon Ramsay dies during the Term and this Agreement is not terminated pursuant to Section 4.2.3, the License shall continue in full force and effect during the remainder of the Term.

6.4 Quality Control.

6.4.1 Quality Control Standards. PH acknowledges that the GRB Marks have secondary meaning in the eyes of purchasers and the public, that the GRB Marks enjoy an excellent reputation and that the provision of restaurant services of poor quality under the GRB Marks could adversely affect such reputation. PH agrees that it shall use its commercially reasonable efforts to maintain the reputation of the GRB Marks and further agrees that its use of the GRB Marks shall be of a quality consistent with the quality used in connection with PH's use of its own trademarks.

6.4.2 Inspection of Operations. During the Term, Gordon Ramsay and GRB shall each have the right, upon reasonable notice and during regular business hours, to inspect PH's operations that touch or concern the Restaurant operation, including inspection of the Restaurant Premises, to ensure that the quality standards for the GRB Marks are being maintained.

6.4.3 Notices. PH shall place appropriate trademark and copyright notices and symbols on any marketing, advertising, promotional or other materials incorporating the GRB Marks and General GR Materials and at the Restaurant Premises, with information to be included in such notices and symbols to be obtained from Gordon Ramsay or GRB. Moreover, PH shall use commercially reasonable efforts to include any specific trademark and copyright notices relating to the GRB Marks as are requested by GRB.

6.5 Gordon Ramsay's Rights in Marks.

6.5.1 Protection. Gordon Ramsay and/or GRB shall, at their own cost and expense, maintain in full force and effect the GRB Marks and General GR Materials that are registered. Nothing in this Section 6.5.1 implies an obligation to register any GRB Marks or General GR Materials that are not registered as of the date hereof; provided, that if GRB registers any GRB Marks or General GR Materials after the date hereof, this Section 6.5.1 shall apply to such GRB Marks and General GR Materials from and after such registration; provided further that Gordon Ramsay or GRB shall apply to register "BURGR Gordon Ramsay" in the United States Patent & Trademark Office.

6.5.2 No Registration. PH shall not, either during or after the Term of this Agreement: (a) use or register any mark which is identical or confusingly similar to any of the GRB Marks or any variation thereof, in any jurisdiction; or (b) register any domain name consisting of or including any of the GRB Marks or any variation thereof.

6.5.3 No Challenges. PH acknowledges the validity of the GRB Marks, and agrees that at no time either during or after the Term of this Agreement will it directly or indirectly challenge or assist others to challenge the validity or strength of the GRB Marks or GRB's ownership thereof, provided that nothing herein shall preclude PH from complying with any lawful subpoena or other legal requirement.

6.6 Indemnification of PH. GRB covenants and agrees to defend, indemnify and save and hold harmless PH and its Affiliates and their respective stockholders, directors, officers, agents and employees from and against all claims, losses, expenses, obligations, liabilities, liens, demands, charges, litigation and judgments, including court costs and reasonable attorneys' fees, arising directly or indirectly from any claim by any third Person (including the GR US Entity or any direct or indirect owner of the GR US Entity) alleging that the use permitted hereunder by PH or its Affiliates of the GRB Marks or General GR Materials violates, infringes or otherwise conflicts with any intellectual property or other rights of a third Person. PH shall notify GRB of any such claim and GRB may and, upon PH's request, shall, at its sole cost and expense, defend such claim or cause such claim to be defended by counsel designated by GRB and reasonably acceptable to PH. In addition, and without limiting the indemnification obligations of GRB as set forth in the foregoing sentence, Gordon Ramsay covenants and agrees to cause the GR US Entity to not bring any such claim arising directly or indirectly from this Agreement, including the operation of the Restaurant and use of the License, against PH or any of its Affiliates.

6.7 Infringement by Third Persons. GRB shall make good faith efforts to monitor for possible infringement of the GRB Marks or General GR Materials and shall promptly inform PH in writing if it becomes aware of any actual or potential infringement of the GRB Marks or General GR Materials. GRB shall use and shall cause its Affiliates to use all commercially reasonable efforts to prosecute infringement of PH's right to use GRB Marks or General GR Materials granted hereunder. If GRB shall not prosecute in a reasonable and timely manner an infringement of the GRB Marks or General GR Materials or shall cease such prosecution once commenced, then PH may, but shall not be required to, prosecute such infringement. In such event, PH shall be entitled to retain any amounts recovered and the out-of-pocket costs of prosecution shall be treated as an Operating Expense of the Restaurant. The parties shall provide to each other such information and assistance as may reasonably be requested in the course of any prosecution of infringements as contemplated by this Section 6.7.

7. PROMOTION AND OPERATIONAL PRESENCE

7.1 Initial Promotion. During the period prior to the Opening Date, Gordon Ramsay shall, as reasonably required by PH, but otherwise in accordance with the terms of this Section 7.1, engage in promotional activities for the Restaurant, which may include commercial photography of Gordon Ramsay, and Gordon Ramsay or other representative of GRB will, as reasonably requested by PH, review

and provide advice and recommendations with respect to the Restaurant's operational, efficiency and profitability issues, the food and beverage menu standards and implementation, and Employee training, evaluations and customer service, media interviews and such other promotional events as PH may reasonably require. Prior to the Opening Date, PH may request Gordon Ramsay to, and Gordon Ramsay shall use commercially reasonable efforts to, make one visit to Las Vegas, Nevada, taking into consideration the scheduling requirements described in Section 3.5. Commencing on the Opening Date, Gordon Ramsay shall be in Las Vegas, Nevada at the Restaurant for a reasonable period of time (not to be less than twenty-four (24) consecutive hours). All visits by Gordon Ramsay under this Section 7.1 are referred to as the "GR Promotional Visits".

7.2 Subsequent Restaurant Visits. From and after the Opening Date, (a) Gordon Ramsay shall visit and attend to the Restaurant at least three (3) times per year of the Term (collectively, the "GR Restaurant Visits"), and two of the three visits shall be for a minimum of twenty-four (24) consecutive hours while one of the three visits shall be for a minimum of 48 consecutive hours, as reasonably scheduled by Gordon Ramsay, taking into consideration the scheduling requirements described in Section 3.5 and any scheduling requirements of Gordon Ramsay under any other agreements with PH or any of its Affiliates (it being understood that any GR Restaurant Visit that occurs concurrently with any such other required visit shall be for a minimum of thirty-six (36) consecutive hours and that Gordon Ramsay shall devote adequate time to meet his obligations under this Agreement and any other agreement), (b) PH may request that Gordon Ramsay make additional visits to the Restaurant (collectively, the "Additional GR Restaurant Visits") and (c) upon the request of PH, Gordon Ramsay's team or representatives of GRB shall visit and attend the Restaurant up to four (4) times per year of the Term (collectively, the "Team Visits"). During the GR Restaurant Visits and Additional GR Restaurant Visits, Gordon Ramsay shall engage in promotional activities for the Restaurant, which may include commercial photography of Gordon Ramsay, as reasonably requested by PH and approved in advance by Gordon Ramsay (such approval not to be unreasonably withheld, conditioned or delayed). During the GR Restaurant Visits, Additional GR Restaurant Visits and the Team Visits, Gordon Ramsay shall, or, if applicable, shall cause his team or GRB to, review and provide advice and recommendations with respect to the Restaurant's operational, efficiency and profitability issues, the food and beverage menu standards and implementation, and Employee training, evaluations and customer service, media interviews and such other promotional events as PH may reasonably require.

7.3 Travel Expenses.

7.3.1 For each GR Promotional Visit and GR Restaurant Visit, PH or its travel desk shall purchase for Gordon Ramsay's use first class round trip airfare between any airport designated from time to time by Gordon Ramsay and Las Vegas McCarran International Airport. The parties shall each endeavor to ensure all such airline tickets are booked not less than thirty (30) calendar days in advance of the departure date. If a GR Promotional Visit or GR Restaurant Visit is cancelled for any reason, PH shall be entitled to the entire refund or credit, if any, resulting from the cancellation of the airline ticket associated with same. Subject to availability, PH may at its option instead provide (at no cost to Gordon Ramsay) the use of a private jet for round trip travel for Gordon Ramsay to Las Vegas, Nevada. For each Additional GR Restaurant Visit, PH or its travel desk shall purchase for Gordon Ramsay's use first class round trip airfare between any airport designated by Gordon Ramsay and Las Vegas McCarran International Airport. During the duration of each GR Promotional Visit and GR Restaurant Visit and subject to availability, PH shall provide for Gordon Ramsay's use, at no cost or expense to Gordon Ramsay, a total of three (3) deluxe rooms at the Hotel or the property owned by an Affiliate of PH known as PH (room and all applicable taxes); provided, however, Gordon Ramsay shall be responsible for all incidental room charges (subject to a thirty percent (30%) discount) and other expenses incurred during the occupancy of such rooms. Any cost or expense to PH or its Affiliates associated with the provision of

travel accommodations and room charges under this Section 7.3.1 shall be for the account of PH, and shall not be a Project Cost or an Operating Expense of the Restaurant.

7.3.2 For each Team Visit, PH and GRB shall agree, acting reasonably and in good faith, the number of team members or representatives of GRB to make the Team Visit and the length of such Team Visit. For each team member or GRB representative (other than Gordon Ramsay for whom Section 7.3.1 shall apply): (a) PH or its travel desk shall purchase for such person, as applicable, (i) coach round trip airfare between any airport in the United States and Las Vegas McCarran International Airport or (ii) business round trip airfare between any airport outside the United States and Las Vegas McCarran International Airport; and (b) PH shall provide for the use of such team member or representative of GRB, at no cost or expense to such person, one (1) standard single room at the Hotel or the property owned by an Affiliate of PH known as PH (room and all applicable taxes); provided, however, such person shall be responsible for all incidental room charges (subject to a thirty percent (30%) discount) and other expenses incurred during the occupancy of such room.

8. LICENSE AND SERVICES FEES.

8.1 License and Services Fees.

8.1.1 Prior to repayment of the Initial Capital Investment, in consideration of the License and Services provided hereunder, PH shall pay to GRB a fee (the "License Fee") equal to:

(a) four percent (4%) of Gross Restaurant Sales up to ten million dollars (\$10,000,000); plus

(b) six percent (6%) of Gross Restaurant Sales greater than ten million dollars (\$10,000,000) up to twelve million dollars (\$12,000,000); plus

(c) eight percent (8%) of Gross Restaurant Sales greater than twelve million dollars (\$12,000,000); plus

(d) ten percent (10%) of all Gross Retail Sales

8.1.2 From and after the repayment of the Initial Capital Investment, in consideration of the License and Services provided hereunder, PH shall pay to GRB a License Fee equal to:

(a) six percent (6%) of Gross Restaurant Sales up to twelve million dollars (\$12,000,000); plus

(b) eight percent (8%) of Gross Restaurant Sales greater than twelve million dollars (\$12,000,000); plus

(c) ten percent (10%) of all Gross Retail Sales

8.2 Timing and Manner of Payments. The License Fee shall be payable on a calendar quarter basis and shall be paid by PH no later than thirty (30) days after the end of the quarter to which it relates

by check, money order or wire transfer in lawful funds of the United States of America to such address or account located within the United States of America as directed by GRB, from time to time.

8.3 Calculations. PH shall be solely responsible for maintaining and shall maintain, all books and records necessary to calculate the License Fee and, within thirty (30) days after the end of each quarter during each Fiscal Year shall deliver notice to GRB reasonably detailing the calculation of the License Fee. PH's calculations shall be conclusive and binding unless: (i) within thirty (30) calendar days' of PH's delivery of such notice, GRB notifies PH in writing of any claimed manifest calculation error therein; or (ii) such calculations are determined to be inaccurate as the result of any audit pursuant to Section 8.4. Upon receipt of any such notification, PH shall review the claimed manifest calculation error and, within thirty (30) calendar days of such notification, advise GRB as to the corrected calculation, if any. If GRB still disagrees with such calculation, the calculation shall not be binding and GRB shall be deemed to have reserved all of his rights related thereto under this Agreement. All cash flow of the Restaurant other than the amounts used to pay Operating Expenses and a reserve amount up to two percent (2%) of Gross Restaurant Sales, shall be applied by PH toward repayment of its Initial Capital Investment.

8.4 Audit. Subject to the remaining provisions of this Section 8.4, GRB shall be entitled at any time, at its sole cost and expense, upon ten (10) calendar days' notice to PH, but not more than two (2) times per calendar year, to cause an audit to be made, during normal business hours, by any Person designated by GRB and approved by PH (who shall not unreasonably withhold, delay or condition said approval), of all books, records, accounts and receipts required to be kept for the calculation of the License Fee and/or the repayment of the Initial Capital Investment, which shall not include tax returns of PH filed on a consolidated basis, and which audit shall be conducted without material disruption or disturbance to PH's operations. If such audit discloses that any License Fee and/or the repayment of the Initial Capital Investment was calculated in error, PH shall be entitled to review such audit materials and to conduct its own audit related to such period. If PH does not dispute the result of GR's audit within ninety (90) days after conclusion and presentation by GRB to PH of GR's findings, PH shall (in the next quarterly allocation) pay to GRB such additional monies necessary to compensate GRB. If such audit discloses that the License Fee owed by PH for any Fiscal Year exceeds the amount paid to GRB for such year more than five (5%) percent, or that the amount charged as repayment of the Initial Capital Investment was five (5%) or more less than it should have been, PH shall pay Gordon Ramsay the actual third party costs of such audit. PH may condition any audit under this Section 8.4 on the receipt of a confidentiality undertaking from any Person to whom information will be disclosed in connection with such audit, in form and substance satisfactory to PH.

9. OPERATIONS.

9.1 Marketing and Publicity. As promptly as practicable after the date hereof, GRB on the one hand, and PH, on the other hand, shall jointly develop a marketing plan with respect to the Restaurant and, during the Term, GRB on the one hand, and PH, on the other hand, shall jointly make all determinations regarding maintaining, updating or otherwise modifying such plan. PH shall make all determinations regarding the actual advertising, sales, promotional and other publicity materials relating to the Restaurant or the transactions contemplated by this Agreement and shall market the Restaurant in accordance with its standard procedures; provided, that any such materials containing the GRB Marks or General GR Materials shall require the prior approval of GRB not to be unreasonably withheld, conditioned or delayed; provided further, that PH shall not be in breach of such marketing obligations to the extent delayed or prevented due to the lack of prior approval of Gordon Ramsay or GRB if required herein. Except as set forth in the immediately preceding sentence, no party shall, and each party shall cause its Affiliates not to, publish or make any press release or other public statement relating to the Restaurant or the transactions contemplated by this Agreement without the prior consent of the other

parties, such consents not to be unreasonably withheld, conditioned or delayed. Neither Gordon Ramsay nor GRB will, and each will cause its Affiliates not to, publish, make or use any such publicity materials without the prior written consent of PH. Marketing consultations and meetings with respect to same, shall take place at such times and such places as the parties agree from time to time. PH shall inform GRB if it becomes aware of any publicity related to the Restaurant that may have a material negative impact on Gross Restaurant Sales or otherwise have a material adverse effect on the Restaurant (it being understood that PH has no obligation to make any effort to monitor for any such publicity). For the avoidance of doubt, the obligations of Gordon Ramsay and GRB set forth in this Section 9.1 shall not affect or otherwise modify the obligations of Gordon Ramsay or GRB set forth in Sections 7.1 and 7.2.

9.2 Operational Efficiencies. As reasonably required by PH from time to time during the Term, GRB, shall consult with PH and provide PH with advice regarding the Restaurant's food and beverage menus, quality standards, and operational, efficiency and profitability issues; provided, however, that PH, after fully and properly considering all reasonable recommendations received from GRB, shall have final approval with respect to all aspects of same. Such operational consulting and advice and meetings with respect to same, shall take place at such times and such places as the parties agree from time to time.

10. REPRESENTATIONS AND WARRANTIES.

10.1 PH's Representations and Warranties. PH hereby represents and warrants to Gordon Ramsay and GRB that:

10.1.1 PH is a limited liability company duly organized, validly existing, and in good standing under the laws of the jurisdiction of its organization;

10.1.2 PH has the valid corporate power to execute and deliver, and perform its obligations under, this Agreement and such execution, delivery and performance has been authorized by all necessary corporate action on the part of PH;

10.1.3 no consent or approval or authorization of any Person is required in connection with PH's execution and delivery, and performance of its obligations under, this Agreement;

10.1.4 there are no actions, suits or proceedings pending or, to the best knowledge of PH, threatened against PH in any court or administrative agency that would prevent PH from completing the transactions provided for herein;

10.1.5 this Agreement constitutes the legal, valid and binding obligation of PH, enforceable in accordance with its terms;

10.1.6 as of the Effective Date, no representation or warranty made herein by PH contains any untrue statement of material fact, or omits to state a material fact necessary to make such statements not misleading;

10.1.7 at all times during the Term, the Restaurant shall be a first-class gourmet restaurant and the Hotel shall maintain the standard and quality of the Hotel existing on the Effective Date, PH currently contemplates that the Restaurant will have at least 170 seats (including in the bar area) and except as otherwise required or restricted by law, regulation or legal process, at all times from and after the Opening date, the Restaurant will have at least 170 seats (including the bar area); and

10.1.8 to the extent that PH or its Affiliates utilizes a "point" or any similar system to offer complimentary, discounted or promotional food, beverage or merchandise to customers, the Restaurant shall be treated no less favorably with regard to redemption of "points" than any other restaurant in Hotel, such that, for example, if the best rate for redemption of "points" in the Hotel is "1 point per \$1 of menu price, the Restaurant will allow for redemption at the same (or lower) rate, but will not require that more than one point be redeemed for each \$1 of menu price. In any event, Gross Restaurant Sales will include the full menu price of such complimentary, discounted or promotional food, beverage and merchandise given to customers;

10.2 Gordon Ramsay's Representations and Warranties. Gordon Ramsay hereby represents and warrants to PH that:

10.2.1 Gordon Ramsay has the legal capacity to execute and deliver, and perform his obligations under, this Agreement;

10.2.2 no consent or approval or authorization of any Person (other than any governmental authority) is required in connection with the execution and delivery by Gordon Ramsay of, and performance by Gordon Ramsay of his obligations under, this Agreement, and to the best of his knowledge and belief, no such consent or approval or authorization is required of any applicable governmental authority;

10.2.3 there are no actions, suits or proceedings pending or, to the best knowledge of Gordon Ramsay, threatened against Gordon Ramsay in any court or before any administrative agency that would prevent Gordon Ramsay from completing the transactions provided for herein (including granting the License);

10.2.4 this Agreement constitutes the legal, valid and binding obligation of Gordon Ramsay, enforceable in accordance with its terms; and

10.2.5 as of the Effective Date, no representation or warranty made herein by Gordon Ramsay contains any untrue statement of a material fact, or omits to state a material fact necessary to make such statements not misleading.

10.3 GRB's Representations and Warranties. GRB hereby represents and warrants to PH that:

10.3.1 GRB is a limited liability company organized, validly existing, and in good standing under the laws of the jurisdiction of its organization;

10.3.2 The GRB Marks have not yet been registered. However, assuming such registration becomes effective, GRB will be the sole and exclusive owner or licensee of, and will have the right to license or sublicense all of the GRB Marks and the General GR Materials. GRB will use its best efforts to hereafter take, all actions necessary to maintain the GRB Marks and the General GR Materials, such that there is no restriction that exists on GRB's use of the GRB Marks and the General GR Materials. The GRB Marks and the General GR Materials are not subject to a current claim of infringement, interference or unfair competition or other claim and, to the best of GRB's knowledge, the GRB Marks and the General GR Materials are not being infringed upon or violated by any third party, no other Person has any right (by ownership, license or otherwise) to use the GRB Marks and the General GR Materials that would constitute a violation of the Exclusivity Provisions, the License and use of the GRB Marks and the General GR Materials contemplated hereby are consistent with the operating agreement of GRB (as in existence as of the date hereof) and have been approved in accordance with such operating agreement,

and each of Gordon Ramsay and GRB hereby approves and consents to the use of the GRB Marks and General GR Materials as contemplated by this Agreement;

10.3.3 no consent or approval or authorization of any Person (including the direct or indirect owners of GRB, but other than any governmental authority) is required in connection with the execution and delivery by GRB of, and performance by GRB of its obligations under, this Agreement, and to the best of GRB's knowledge and belief, no such consent or approval or authorization is required of any applicable governmental authority;

10.3.4 there are no actions, suits or proceedings pending or, to the best knowledge of GRB, threatened against GRB in any court or before any administrative agency that would prevent GRB from completing the transactions provided for herein (including granting the License);

10.3.5 this Agreement constitutes the legal, valid and binding obligation of GRB, enforceable in accordance with its terms; and

10.3.6 as of the Effective Date, no representation or warranty made herein by GRB contains any untrue statement of a material fact, or omits to state a material fact necessary to make such statements not misleading.

11. STANDARDS; PRIVILEGED LICENSE.

11.1 Standards. Each of Gordon Ramsay and GRB acknowledges that the PH is an exclusive first-class resort hotel casino and that the Restaurant shall be an exclusive first-class restaurant and that the maintenance of PH and GRB Marks, PH's and the Restaurant's reputation and the goodwill of all of PH's, PH's and the Restaurant's guests and invitees is absolutely essential to PH, and that any impairment thereof whatsoever will cause great damage to PH. GRB therefore covenants and agrees that (a) it shall not and it shall cause its Affiliates not to use or license GRB Marks or General GR Materials in a manner that is inconsistent with, or take any action that dilutes or denigrates, the current level of quality, integrity and upscale positioning associated with the GRB Marks and General GR Materials and (b) it shall and it shall cause its Affiliates to conduct themselves in accordance with the highest standards of honesty, integrity, quality and courtesy so as to maintain and enhance the reputation and goodwill of PH, the GRB Marks, PH and the Restaurant and at all times in keeping with and not inconsistent with or detrimental to the operation of an exclusive, first-class resort hotel casino and an exclusive, first-class restaurant. GRB shall use commercially reasonable efforts to continuously monitor the performance of each of its and its Affiliates' respective agents, employees, servants, contractors and licensees and shall ensure the foregoing standards are consistently maintained by all of them. Any failure by GRB or any of its respective Affiliates or any of their respective agents, employees, servants, contractors or licensees to maintain the standards described in this Section 11.1 shall, in addition to any other rights or remedies it PH have, give PH the right to terminate this Agreement pursuant to Section 4.2.4 in its sole and absolute discretion. For the avoidance of doubt, Gordon Ramsay's persona as exhibited on the television show Hell's Kitchen prior to the date hereof shall not constitute a failure by Gordon Ramsay to maintain the standards described in this Section 11.1.

11.2 Privileged License. Each of Gordon Ramsay and GRB acknowledges that PH and PH's Affiliates are businesses that are or may be subject to and exist because of privileged licenses issued U.S., state, local and foreign governmental, regulatory and administrative authorities, agencies, boards and officials (the "Gaming Authorities") responsible for or involved in the administration of application of laws, rules and regulations relating to gaming or gaming activities or the sale, distribution and possession of alcoholic beverages. The Gaming Authorities require PH, and PH deems it advisable, to have a compliance committee (the "Compliance Committee") that does its own background checks on, and

issues approvals of, Persons involved with PH and its Affiliates. Prior to the execution of this Agreement and, in any event, prior to the payment of any monies by PH to Gordon Ramsay and/or GRB hereunder, and thereafter on each anniversary of the Opening Date during the Term, (a) each of Gordon Ramsay and GRB shall provide or cause to be provided to PH written disclosure regarding its GR Associates and (b) the Compliance Committee shall have issued approvals of all of the GR Associates. Additionally, during the Term, on ten (10) calendar days written request by PH to Gordon Ramsay and GRB, Gordon Ramsay and GRB shall disclose to PH all GR Associates. To the extent that any prior disclosure becomes inaccurate, Gordon Ramsay and GRB shall, within ten (10) calendar days from that event, update the prior disclosure without PH making any further request. Each of Gordon Ramsay and GRB shall cause all GR Associates to provide all requested information and apply for and obtain all necessary approvals required or requested by PH or the Gaming Authorities. If any GR Associate fails to satisfy any such requirement, if PH or any of PH's Affiliates are directed to cease business with any GR Associate by any Gaming Authority, or if PH shall determine, in PH's sole and exclusive judgment, that any GR Associate is an Unsuitable Person, then immediately following notice by PH to Gordon Ramsay and GRB, (a) Gordon Ramsay and/or GRB shall terminate any relationship with the Person who is the source of such issue, (b) Gordon Ramsay and/or GRB shall cease the activity or relationship creating the issue to PH's satisfaction, in PH's sole judgment, or (c) if such activity or relationship is not subject to cure as set forth in the foregoing clauses (a) and (b), as determined by PH in its sole discretion, PH shall, without prejudice to any other rights or remedies of PH including at law or in equity, have the right to terminate this Agreement and its relationship with Gordon Ramsay and GRB. Each of Gordon Ramsay and GRB further acknowledges that PH shall have the absolute right to terminate this Agreement in the event any Gaming Authority requires PH or one of its Affiliates to do so. Any termination by PH pursuant to this Section 11.2 shall not be subject to dispute by Gordon Ramsay or GRB and shall not be the subject of any proceeding under Article 13.

12. CONDEMNATION; CASUALTY; FORCE MAJEURE.

12.1 Condemnation. In the event that during the Term the whole of the Restaurant shall be taken under power of eminent domain by any governmental authority or conveyed by PH to any governmental authority in lieu of such taking, then this Agreement shall terminate as of the date of such taking. In the event that during the Term a substantial portion of the Restaurant (thirty percent (30%) or more) shall be taken under power of eminent domain by any governmental authority or conveyed by PH to any governmental authority in lieu of such taking (as determined by PH in its sole and absolute discretion), PH may, in the exercise of its sole discretion, terminate this Agreement upon written notice give not more than thirty (30) calendar days after the date of such taking. All compensation awarded by any such governmental authority shall be the sole property of PH and neither Gordon Ramsay nor GRB shall have any right, title or interest in and to same except that Gordon Ramsay and GRB may pursue their own separate claim provided, that any such claim will not reduce the award granted to PH.

12.2 Casualty.

12.2.1 Permanent and Substantial Damage. If PH or the Restaurant experiences any Permanent Damage or any Substantial Damage, in each case PH shall have the right to terminate this Agreement upon written notice having immediate effect delivered to Gordon Ramsay within one hundred twenty (120) days after the occurrence of the Permanent Damage or Substantial Damage, as the case may be. All insurance proceeds recovered in connection with any damage or casualty to PH or Restaurant shall be the sole property of PH and neither Gordon Ramsay nor GRB shall have any right, title or interest in and to same.

12.2.2 Obligation in Connection With a Casualty. If (i) PH does not terminate this Agreement the event of a Substantial Damage to PH or Restaurant within the time periods provided in

Section 12.2.1, (ii) restoration and repair of the damage is permitted under applicable Law and the terms of any agreement to which PH or any of its Affiliates is a party and (iii) PH has received net insurance proceeds sufficient to complete restoration and repair, PH shall use commercially reasonable restore and repair PH or the Restaurant, as applicable, to its condition and character immediately prior to the damage. If all such restoration and repair is not completed within one hundred eighty (180) days following the occurrence of the damage, GRB shall have the right to terminate this Agreement upon written notice having immediate effect delivered to PH within one hundred twenty (120) days after one hundred eighty (180) days following the date of the damage and PH shall have no liability related to the failure of such completion to have occurred.

12.3 Excusable Delay. In the event that during the Term any party shall be delayed in or prevented from the performance of any of such party's respective agreements, covenants or obligations hereunder by reason of strikes, lockouts, unavailability of materials, failure of power, fire, earthquake or other acts of God, restrictive applicable laws, riots, insurrections, the act, failure to act or default of the other party, war, terrorist acts or other reasons wholly beyond its control and not reasonably foreseeable (each, an "Excusable Delay"), then the performance of such act shall be excused for the period of the delay and the period for the performance of such act shall be extended for a period equivalent to the period of such delay. Notwithstanding the foregoing, lack of funds shall not be deemed an Excusable Delay. Any claim for an extension of time due to an Excusable Delay must be made in writing and received by the other parties not more than fifteen (15) calendar days after the commencement of such delay, otherwise, such party's rights under this Section 12.3 shall be deemed waived.

12.4 No Extension of Term. Nothing in this Article 12 shall extend the Term and no other payments shall accrue during any period during which the Restaurant is closed by reason of such condemnation, casualty or Excusable Delay.

13. ARBITRATION.

13.1 Dispute Resolution. Except for a breach by PH of Article 6 or Section 14.17 or by Gordon Ramsay or GRB of Section 2.3, 2.4, or 14.17 or Article 6, as applicable, in the event of any other dispute, controversy or claim arising out of or relating to this Agreement between the parties to this Agreement ("Dispute"), any party may serve written notice (a "Dispute Notice") upon the other parties setting forth the nature of the Dispute and the relief sought, and the parties shall attempt to resolve the Dispute by negotiation. If the Dispute has not been resolved within thirty (30) days of receipt of a Dispute Notice, any party may serve on the other parties a request to resolve the Dispute by arbitration. All Disputes not resolved by the foregoing negotiation shall be finally settled by binding arbitration. Such arbitration shall be held in Las Vegas, Nevada in accordance with the Commercial Rules of Arbitration of the American Arbitration Association ("AAA"), in effect on the date of the Dispute Notice (the "Rules") by one or more arbitrators appointed in accordance with Section 13.2 hereof.

13.2 Arbitrator(s). If the claim in the Dispute Notice does not exceed Two Hundred Thousand and 00/100 Dollars (\$200,000.00), there shall be a single arbitrator nominated by mutual agreement of Gordon Ramsay and/or GRB (as the case may be) and PH and appointed according to the Rules. If the claim in the Dispute Notice exceeds Two Hundred Thousand and 00/100 Dollars (\$200,000.00), the arbitration panel shall consist of three (3) members unless Gordon Ramsay and/or GRB (as the case may be) and PH agree to use a single arbitrator. One of the arbitrators shall be nominated by PH, one of the arbitrators shall be nominated by Gordon Ramsay and/or GRB (as the case may be) and the third, who shall serve as chairman, shall be nominated by the two (2) party-arbitrators within thirty (30) days of the confirmation of the nomination of the second arbitrator. If either Gordon Ramsay and/or GRB, on the one hand, or PH, on the other hand, fails to timely nominate an arbitrator in accordance with the Rules, or if the two (2) arbitrators nominated by Gordon Ramsay and/or GRB and PH fail to timely agree upon a

third arbitrator, then such arbitrator will be selected by the AAA Court of Arbitration in accordance with the Rules. The arbitral award shall be final and binding on the parties and may be entered and enforced in any court having jurisdiction over any of the parties or any of their assets.

14. MISCELLANEOUS.

14.1 No Partnership or Joint Venture. Nothing expressed or implied by the terms of this Agreement shall make or constitute any party hereto the agent, partner or joint venturer of and with any other party. Accordingly, the parties acknowledge and agree that all payments made to GRB under this Agreement shall be for services rendered as an independent contractor and, unless otherwise required by law, PH shall report as such on IRS Form 1099, and all parties shall report this for financial and tax purposes in a manner consistent with the foregoing.

14.2 Successors, Assigns and Delagees. Except as otherwise set forth in this Agreement, no party may assign this agreement or any right, benefit or obligation hereunder, or delegate any obligation hereunder, without the prior written of the other parties (which consent may be withheld in any such other party's sole discretion); provided, however, that PH may assign or delegate all or any portion of this Agreement to an Affiliate of PH and may assign this Agreement in whole as contemplated by Section 14.4; provided further, that (a) GRB may assign this Agreement in its entirety to Gordon Ramsay so long as, at or prior to such assignment, Gordon Ramsay becomes the exclusive owner of the GRB Marks and possesses and at all times during the Term will possess the necessary right to license the GRB Marks to PH pursuant to this Agreement, free and clear of any restrictions except those imposed by this Agreement, and (b) Gordon Ramsay may assign his interest in this Agreement in its entirety to a Person that is controlled by Gordon Ramsay (subject to: (i) Gordon Ramsay having first provided to PH written disclosure regarding such Person; and (ii) the Compliance Committee having issued its necessary approvals, shall not to be unreasonably withheld, conditioned or delayed), provided, that in the event of any change of control of such Person, the interest in this Agreement assigned by Gordon Ramsay shall be deemed to be automatically assigned back to Gordon Ramsay and PH shall have the right to terminate this Agreement pursuant to Section 4.2.7(a) (it being understood that any such change of control shall be deemed a material breach of this Agreement). Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns and delagees.

14.3 Waiver of Rights. Failure to insist on compliance with any of the agreements, obligations and covenants hereof shall not be deemed a waiver of such agreements, obligations and covenants, nor shall any waiver or relinquishment of any right or power hereunder at anyone or more time or times be deemed a waiver or relinquishment of such rights or powers at any other time or times. The exercise of any right or remedy shall not impair PH's, Gordon Ramsay's or GRB's right to any other remedy.

14.4 Divestiture or Transfer of Management Rights of PH. Notwithstanding Section 14.2, PH may assign this Agreement to any purchaser or other acquirer of PH or to any entity to which PH assigns management or operational responsibility of PH. Notwithstanding the foregoing, Section 2.3 shall terminate upon consummation of such divestiture or assignment unless otherwise agreed by the acquirer or assignee.

14.5 Notices. Any notice or other communication required or permitted to be given by a party hereunder shall be in writing, and shall be deemed to have been given by such party to the other party or parties (a) on the date of personal delivery, (b) on the next business day following any facsimile transmission to a party at its facsimile number set forth below (if confirmation of transmission is received), (c) three (3) calendar days after being given to an international delivery company, or (d) ten (10) calendar days after being placed in the mail, as applicable, registered or certified, postage prepaid

addressed to the following addresses (each of the parties shall be entitled to specify a different address by giving notice as aforesaid):

If to PH:

Planet Hollywood Las Vegas, LLC
3667 Las Vegas Boulevard South
Las Vegas, Nevada 89109

With a copy (which shall not constitute notice) to:

Caesars Entertainment Corporation
One Caesars Palace Drive
Las Vegas, Nevada 89109
Attention: General Counsel

If to Gordon Ramsay:

Gordon Ramsay
c/o Gordon Ramsay Holdings Limited
1 Catherine Place London SW1E 6X
United Kingdom

With a copy (which shall not constitute notice) to:

Brian Ziegler
Certilman Balin Adler & Hyman, LLP
90 Merrick Avenue, 9th Floor
East Meadow, NY 11554

If to GRB:

GR BURGR, LLC
c/o Rowen Seibel
200 Central Park South
19th Floor
New York, NY 10019

And to Gordon Ramsay and Stuart Gilles
At the address listed above for Gordon Ramsay

With a copy (which shall not constitute notice) to:

Brian Ziegler
Certilman Balin Adler & Hyman, LLP
90 Merrick Avenue, 9th Floor
East Meadow, NY 11554

And to

Michael Thomas

Sheridans Solicitors
Alfred Place
London WC1E 7EA
United Kingdom

14.6 Entire Agreement. This Agreement constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations, and discussions, whether oral or written.

14.7 Severability. If any part of this Agreement is determined to be void, invalid or unenforceable, such void, invalid, or unenforceable portion shall be deemed to be separate and severable from the other portions of this Agreement, and the other portions shall be given full force and effect, as though the void, invalid or unenforceable portions or provisions were never a part of this Agreement.

14.8 Amendment and Modification. No supplement, modification, waiver or termination of this Agreement shall be binding unless executed in writing by the party to be bound; provided that Gordon Ramsay may amend Exhibit B without PH's prior written consent upon reasonable prior notice to PH. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

14.9 Headings. Article or Section headings are not to be considered part of this Agreement and are included solely for convenience and reference and shall not be held to define, construe, govern or limit the meaning of any term or provision of this Agreement. References in this Agreement to an Article or Section shall be reference to an Article or Section of this Agreement unless otherwise stated or the context otherwise requires.

14.10 Governing Law: Submission to Jurisdiction: Specific Performance.

14.10.1 The laws of the State of Nevada applicable to agreements made in that State shall govern the validity, construction, performance and effect of this Agreement.

14.10.2 Notwithstanding any other provision of this Agreement, the parties acknowledge and agree that monetary damages would be inadequate in the case of any breach by PH of Article 6 or Section 14.17 or Gordon Ramsay or GRB, as applicable, of the covenants contained in Section 2.3, 2.4, or 14.18 or Article 6 of this Agreement. Accordingly, each party shall be entitled, without limiting its other remedies and without the necessity of proving actual damages or posting any bond, to equitable relief, including the remedy of specific performance or injunction, with respect to any breach or threatened breach of such covenants and each party (on behalf of itself and its Affiliates) consents to the entry thereof in any affected jurisdiction. In the event that any proceeding is brought in equity to enforce the provisions of this Agreement, no party hereto shall allege, and each party hereto hereby waives the defense or counterclaim that there is an adequate remedy at law.

14.10.3 Subject to the provisions of Sections 13.1 and 14.10.1, Gordon Ramsay, GRB and PH each agree to submit to the exclusive jurisdiction of any state or federal court within the Clark County Nevada (the "Nevada Courts") for any court action or proceeding to compel or in support of arbitration or for provisional remedies in aid of arbitration, including any action to enforce the provisions of Article 13 (each an "Arbitration Support Action") or for any action or proceeding contemplated by Section 14.10.2. Each of the parties hereto irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding in a Nevada Court arising out of this Agreement

including, but not limited to, an Arbitration Support Action or action or proceeding contemplated by Section 14.10.2 and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

14.11 Interpretation. This Agreement is to be deemed to have been prepared jointly by the parties hereto, and if any inconsistency or ambiguity exists herein, it shall not be interpreted against any party but according to the application of rules of the interpretation of contracts. Each party has had the availability of legal counsel with respect to its execution of this Agreement. The use of the terms "includes" or "including" shall in all cases herein mean "includes, without limitation" and "including, without limitation", respectively. All obligations and duties of Gordon Ramsay and/or his team to provide recommendations or advice to PH shall require Gordon Ramsay and his team to coordinate and provide only one communication with respect to such advice. The use of the terms "Gordon Ramsay and/or his team" or words of similar import shall in all cases herein mean "Gordon Ramsay shall, or shall cause one or more members of his team to," and the requirement of PH to obtain any consent or approval from Gordon Ramsay shall be satisfied upon the consent or approval of any team member of Gordon Ramsay designated by Gordon Ramsay/his team in writing and PH shall be entitled to rely on all communications from any such team member.

14.12 Third Persons. Except as provided in Section 14.15 and 14.16, nothing in this Agreement, expressed or implied, is intended to confer upon any Person other than the parties hereto any rights or remedies under or by reason of this Agreement.

14.13 Attorneys' Fees. The prevailing party in any dispute that arises out of or relates to the making or enforcement of the terms of this Agreement shall be entitled to receive an award of its expenses incurred in pursuit or defense of said claim, including, without limitation, attorneys' fees and costs, incurred in such action.

14.14 Counterparts. This Agreement may be executed in counterparts, each one of which so executed shall be deemed an original, and all of which shall together constitute one and the same agreement.

14.15 Indemnification Against Third Party Claims.

14.15.1 By PH. PH covenants and agrees to defend, indemnify and save and hold harmless Gordon Ramsay, GRB and their respective Affiliates and their and their respective Affiliates' stockholders, directors, officers, agents and employees from and against all claims, losses, expenses, obligations, liabilities, liens, demands, charges, litigation and judgments, including court costs and reasonable attorneys' fees, incurred or suffered by them arising directly or indirectly from any claim, action, suit, demand, assessment, investigation, arbitration or other proceeding by or in respect of any third Person (a "Third-Party Claim") arising out of PH's breach, performance or non-performance of its obligations under or in connection with this Agreement.

14.15.2 By Gordon Ramsay and GRB. Each of Gordon Ramsay (as to his breach, performance or non-performance) and GRB (as to its breach, performance and non-performance) covenants and agrees, severally, to defend, indemnify and save and hold harmless PH and its Affiliates and PH's and PH's Affiliates' respective stockholders, directors, officers, agents and employees from and against all claims, losses, expenses, obligations, liabilities, liens, demands, charges, litigation and judgments, including court costs and reasonable attorneys' fees, incurred or suffered by them arising directly or indirectly from any Third-Party Claim arising out of Gordon Ramsay's breach, performance or

non-performance of his obligations or GRB's breach, performance or non-performance of its obligations, as the case may be, under or in connection with this Agreement.

14.15.3 Procedures. In connection with any Third Party Claim for which a Person (any of such Persons, an "Indemnified Person") is entitled to indemnification under this Section 14.15, the Indemnified Person asserting a claim for indemnification under this Section 14.15 shall notify the party from which indemnification is being sought (the "Indemnifying Person") of such Third Party Claim and the Indemnifying Person shall, at its sole cost and expense, defend such Third Party Claim or cause the same to be defended by counsel designated by the Indemnifying Person and reasonably acceptable to the Indemnified Person. Notwithstanding the foregoing, the Indemnified Person, at the Indemnifying Person's expense, if the Indemnifying Person does not undertake and duly pursue the defense of such Third Party Claim in a timely manner or, in the case of PH, if the Third Party Claim is asserted by any Governmental Authority, may defend such action, suit or proceeding or cause the same to be defended by counsel designated by the Indemnified Person. Neither the Indemnified Person nor the Indemnifying Person shall settle or compromise any Third Party Claim that is the subject of a claim for indemnification under this Section 14.15 without the prior written consent of the other.

14.16 Withholding and Tax Indemnification.

14.16.1 If PH is required to deduct and withhold from any payments or other consideration payable or otherwise deliverable pursuant to this Agreement to Gordon Ramsay or GRB any amounts under the Internal Revenue Code of 1986, as amended (the "Code"), or any provision of United States federal, state, local or foreign law, statute, regulation, treaty, administrative ruling, pronouncement or other authority or judicial opinion, PH agrees that, prior to said deduction and withholding, it shall provide Gordon Ramsay and GRB with notice of same. To the extent such amounts are so deducted or withheld, such amounts shall be treated for all purposes under this Agreement as having been paid to the person to whom such amounts would otherwise have been paid. If requested by PH, GRB shall promptly deliver, or cause to be promptly delivered, to PH all the appropriate Internal Revenue Service forms necessary for PH, in its sole and absolute discretion deems necessary to make a determination as to its responsibility to make any such U.S. federal withholding with respect to any payment payable pursuant to this Agreement.

14.16.2 Notwithstanding anything to the contrary in this Agreement, GRB shall be responsible for and shall jointly and severally indemnify and hold harmless PH and its Affiliates against (i) all Taxes (including, without limitation, any interest and penalties imposed thereon) payable by or assessed against PH or any of its Affiliates with respect to all amounts payable by PH to GRB pursuant to this Agreement and (ii) any and all claims, losses, damages, liabilities, costs and expenses (including reasonable attorneys' fees and expenses) suffered or paid by PH or any of its Affiliates as a result of or in connection with such Taxes. PH shall have the right to reduce any payment payable by PH to GRB pursuant to this Agreement in order to satisfy any indemnity claim pursuant to this Section. For purposes of this Section, the term "Tax" or "Taxes" means all taxes, assessments, charges, duties, fees, levies or other governmental charges, including all federal, state, local and foreign income, franchise, profits, capital gains, capital stock, transfer, sales, use, value added, occupation, property, excise, severance, windfall profits, stamps, license, payroll, social security, withholding and other taxes, or other governmental assessments, duties, fees, levies or charges of any kind whatsoever, all estimated taxes, deficiency assessments, additions to tax, penalties and interest.

14.17 Confidentiality.

14.17.1 Each party agrees that it shall not use, nor shall it induce or permit others to use, any of the Confidential Information of another party for any purpose other than to further the purpose of

this Agreement consistent with the terms hereof or as otherwise contemplated hereby. Each party further agrees that it shall not reveal, nor shall it permit or induce others to reveal, any of the Confidential Information of another party to any other Person: (i) except to the Representatives of the receiving party to the extent such Persons require knowledge of the same in connection with the transactions contemplated in this Agreement; (ii) except as required to comply with applicable laws, regulation or legal process (but only after compliance with Section 14.17.2); and (iii) except as otherwise agreed by the party to which the Confidential Information belongs in writing. Each party receiving, or whose Representatives receive, Confidential Information of another party (a "Recipient") shall inform its Representatives of the proprietary nature of such Confidential Information and shall be responsible for any further disclosure of such Confidential Information by any such Representative unless the Recipient would have been permitted to make such disclosure hereunder. Each Recipient, upon written request following termination of this Agreement, shall destroy any Confidential Information of another party in its or any of its Representative's possession (and certify to the destruction thereof).

14.17.2 In the event that a Recipient or any of its Representatives is requested or required by applicable law, regulation or legal process to disclose any of the Confidential Information of another party, the Recipient will notify the other party promptly in writing so that the other party may seek a protective order or other appropriate remedy, or, in the other party's sole discretion, waive compliance with the terms of this Agreement. The Recipient agrees not to, and agrees to cause its Representatives not to, oppose any action by the other party to obtain a protective order or other appropriate remedy. In the event that no such protective order or other remedy is obtained, or that the other party waives compliance with the terms of this agreement, the Recipient and its respective Representatives will furnish only that portion of the Confidential Information of the other party which the Recipient is advised by its counsel is legally required to be disclosed at that time and the Recipient will exercise its reasonable best efforts to obtain confidential treatment, to the extent available, for such Confidential Information so disclosed.

14.18 Subordination. For the avoidance of doubt, this Agreement does not create in favor of Gordon Ramsay or GRB any interest in real or personal property or any lien or encumbrance on PH or any ground or similar lease affecting all or any portion of PH (as the same may be renewed, modified, consolidated, replaced or extended, a "Ground Lease"). Each of Gordon Ramsay and GRB acknowledges and agrees that PH may from time to time assign or encumber all or any part of its interest in PH or any Ground Lease by way of any one or more mortgages, deeds of trust, security agreements or similar instruments (as the same may be renewed, modified, consolidated, replaced or extended, "Mortgages"), assign or encumber all or any part of its interest in this Agreement as security to any holder of a Mortgage or a landlord under a Ground Lease or enter into a Ground Lease. The rights of Gordon Ramsay and GRB hereunder whether with respect to PH and the revenue thereof or otherwise shall be inferior and subordinate to the rights and remedies of the holder of any Mortgage and the landlord under any Ground Lease. For the avoidance of doubt, neither Gordon Ramsay nor GRB shall have any right to encumber or subject PH or the Restaurant, or any interest of PH therein, to any lien, charge or security interest, including any mechanic's or materialman's lien, charge or encumbrance of any kind. GRB, at its sole cost and expense, shall promptly cause any and all such liens, charges or security interests to be released by payment, bonding or otherwise (as acceptable to PH in its sole discretion) within ten (10) days after GRB first has notice thereof. If GRB fails to timely take such action, PH may pay the claim relating to such lien, charge or security interest and any amounts so paid by PH shall be reimbursed by GRB upon demand.

14.19 Comps and Reward Points. Gordon Ramsay shall be entitled to reasonable comp privileges to be reasonably agreed to by the parties. PH shall cause the Restaurant to participate in PH's reward points system and the Restaurant shall be entitled to receive the point redemption thresholds in place as of the date of this Agreement for other first class, gourmet restaurants in PH. For purposes of

this Agreement, one reward point shall entitle the holder thereof to \$1.00 of food or beverage in the Restaurant.

14.20 Intellectual Property Rights. Except with respect to the GRB Marks and GR Materials, GRB acknowledges and agrees that PH shall own any works, trade names, trademarks, designs, trade dress, service names and service marks, and registrations thereof and applications for registration thereof, and all works of authorship, programs, techniques, processes, formulas, developmental or experimental work, work-in-process, methods or trade secrets and all other materials, work product, intangible assets or other intellectual property rights created or developed by any party for use in association with the Restaurant or otherwise pursuant to this Agreement except for any materials that that are created by any party pursuant to this Agreement in which any intellectual property rights of Gordon Ramsay, GRB and/or any of the Affiliates of either are embodied or incorporated, including all photographic or video images, all promotional materials and all marketing materials produced in accordance with this Agreement.

14.21 Additional Restaurant Projects. ~~Additional Restaurant Projects.~~ If PH elects to pursue any venture similar to the Restaurant (i.e., any venture generally in the nature of a burger centric or burger themed restaurant), GRB shall, or shall cause an Affiliate to, execute a development, operation and license agreement generally on the same terms and conditions as this Agreement, subject only to revisions agreed to by the parties, including revisions as are necessary to reflect the differences in such things as location, Project Costs, Initial Capital Investment, Operating Expenses and the potential for Gross Restaurant Sales between the Restaurant and such other venture and any resulting Section 8.1 threshold adjustments.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the Effective Date first written hereinabove.

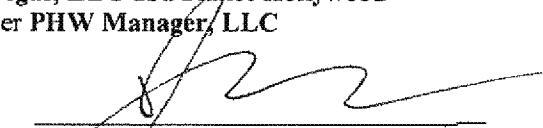
PHW Las Vegas, LLC dba Planet Hollywood
by its manager PHW Manager, LLC

By: _____

Name: _____

Its: _____

Date: _____


John W.R. Payne
Authorized Representative
12-14-12

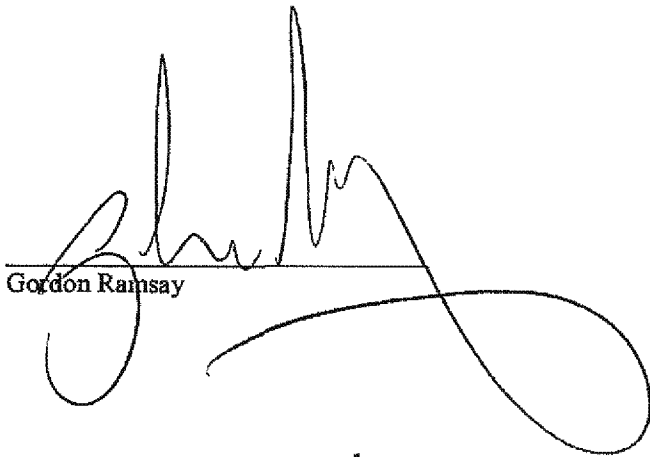
Legal
Department

Digitally signed by Legal
Department
DN: cn=Legal Department, o=ca,
email=asabo@caesars.com, c=US
Date: 2012.12.12 19:36:58 -0800

GR BURGR, LLC

By: Ronan Seibel
Name: Ronan Seibel
Its: Managing Member
Date: 12/13/12

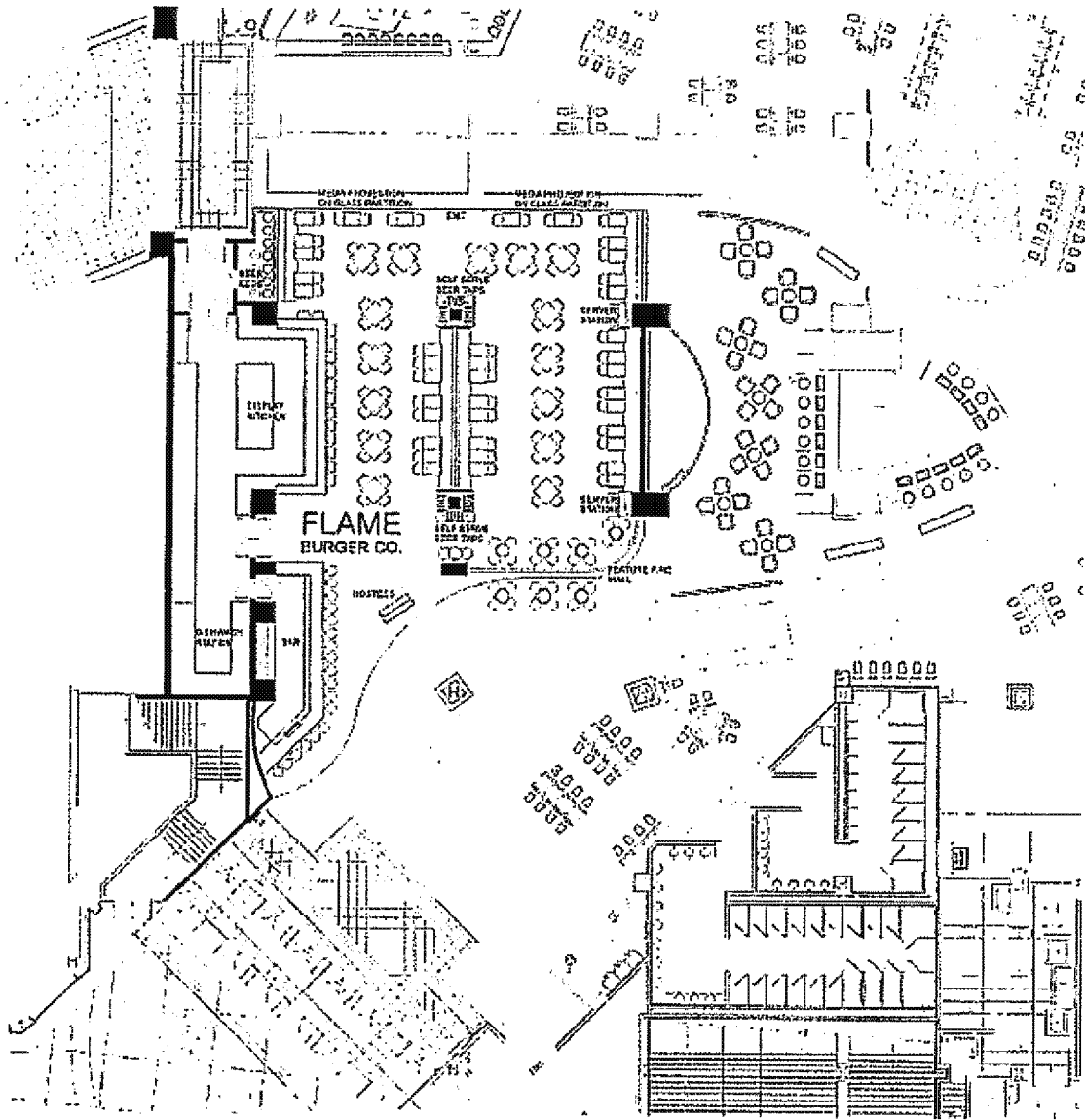
STUART GILLIES
MANAGING MEMBER
S. Gillies
12/13/12



Gordon Ramsay

EXHIBIT A
RESTAURANT PREMISES

(SEE ATTACHED)

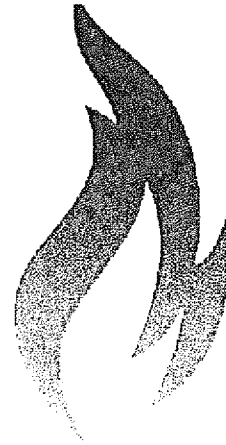


PROPOSED PLAN
200 SEATS
3800 SF DINING AREA
1200 SF KITCHEN / SERVICE / BOH

Total Square Footage = 6450

EXHIBIT B

GRB MARKS



BURGR

G O R D O N R A M S A Y

EXHIBIT C



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

In re: GR Burgr, LLC

)
)
) C.A. No.:
)
)

**VERIFIED PETITION FOR JUDICIAL DISSOLUTION
AND DECLARATORY JUDGMENT**

Petitioner GR US Licensing LP (“GRUS”) hereby petitions the Court for an order dissolving GR Burgr, LLC, a Delaware limited liability company (“GRB” or the “Company”) pursuant to 6 *Del. C.* § 18-802 (the “Act”) and the terms of the limited liability company agreement governing GRB (the “LLC Agreement”). The grounds for GRUS’s petition are as follows:

NATURE OF THE ACTION

1. Through this petition GRUS requests that the Court dissolve GRB because the Company has ceased to do business and its ability to carry on any future business is not reasonably practicable in light of the felony conviction of Rowen Seibel (“Seibel”), a 50% member and manager of GRB, and his designation as an “Unsuitable Person” as more particularly set forth below. GRB’s sole income generating asset was a Development, Operation and License Agreement (the “Caesars Agreement”) with PHW Las Vegas, LLC (“Caesars”), through which GRB licensed certain trademarks to Caesars for use in a single restaurant in the Planet Hollywood casino in Las Vegas, Nevada. Following Seibel’s felony conviction,

Caesars determined that Mr. Seibel was an “Unsuitable Person” pursuant to the Caesars Agreement and terminated the Caesars Agreement with GRB because of Mr. Seibel’s association with the Company. With the Caesars Agreement terminated and Seibel’s classification as an Unsuitable Person, it is no longer reasonably practicable for GRB to carry on its business. Seibel cannot be associated or connected with any regulated business, in particular those requiring a gaming or liquor license.

2. The Company’s two managers (appointed by GRUS and Seibel, respectively) have reached a deadlock on the future of the Company and the LLC Agreement provides no mechanism to resolve that deadlock, leaving no alternative other than a Court-ordered dissolution of the Company in accordance with 6 *Del. C.* § 18-802.

3. The LLC Agreement provides that the Company may be dissolved pursuant to a judicial decree of dissolution under the Act. LLC Agreement § 13.1(c).

4. The LLC Agreement also provides that GRB is dissolved when “the LLC ceases its business operations on a permanent basis.” *Id.* § 13.1(a).

BACKGROUND

5. The Company is a joint venture created by GRUS, a Delaware limited partnership affiliated with celebrity chef Gordon Ramsay, and Seibel in December 2012 to develop first class restaurants using certain trademarks licensed to the

Company by GRUS (the “GRB Marks”). *See* LLC Agreement, Recitals & § 4.¹ GRUS and Seibel each own a 50% member interest in the Company. *Id.* § 7.2.

6. Under the LLC Agreement, GRUS and Seibel each have the right to designate one Manager of the Company, and all decisions of the Managers must be made based on a majority vote of the Managers—essentially requiring unanimity among the Managers for all decisions. *Id.* § 8.1-8.2. GRUS appointed Stuart Gillies as its designated Manager and Seibel designated himself as a Manager. *Id.* § 8.2.

The Caesars Agreement

7. On December 13, 2012, the Company entered into the Caesars Agreement with Caesars to allow Caesars use of the GRB Marks in the operation of a restaurant in the Planet Hollywood casino in Las Vegas, Nevada. *See* Caesars Agreement, at 1.² Since its formation, the Company had no other business aside from the Caesars Agreement.

8. Because Caesars is a regulated business, subject to and existing because of privileged licenses, including those issued by gaming authorities, the Caesars Agreement required the “highest standards of honesty, integrity, [and] quality...” of GRB and its affiliates, including Seibel. *Id.* § 11.1. The Caesars Agreement required full and frank disclosure by the Company and its associates, including Seibel, and as

¹ The LLC Agreement is attached hereto as Exhibit 1.

² The Caesars Agreement is attached hereto as Exhibit 2.

a fundamental condition, the Caesars Agreement was expressly conditioned on Caesars being satisfied that the Company, its members and managers, and their respective affiliates are not at any time “Unsuitable Persons.” *Id.* § 2.2. An “Unsuitable Person,” as defined in the Caesars Agreement, is a person “whose affiliation with [Caesars] or its [a]ffiliates could be anticipated to result in a disciplinary action relating to, or the loss of, inability to reinstate or failure to obtain” gaming and alcohol licenses held by Caesars. *Id.* § 1. The Caesars Agreement required written disclosure on an ongoing basis with respect to GRB and its associates concerning any possible designation as an Unsuitable Person. *Id.* § 11.2. Seibel concealed his criminal actions, described in detail below, when the Caesars Agreement was signed, and failed to subsequently disclose these actions, as required.

9. Given the fundamental importance to Caesars as a regulated business, the Caesars Agreement granted Caesars the sole and exclusive judgment to determine whether any person associated with GRB, its members and managers, or its affiliates is an Unsuitable Person, and upon such a determination Caesars had the right to terminate the Caesars Agreement upon written notice. *Id.* § 11.2.

Seibel’s Criminal Actions And Conviction

10. On April 18, 2016, Seibel plead guilty to a one-count felony criminal information charging him with impeding the administration of the Internal Revenue Code (26 U.S.C. § 7212) (corrupt endeavor to obstruct and impede the due

administration of the Internal Revenue Laws) for which the punishment is up to two years imprisonment, and on August 19, 2016, Judge William H. Pauley, III of the Southern District of New York sentenced Seibel to one month of imprisonment, six months of home detention, and 300 hours of community service, and ordered restitution. Judge Pauley described Seibel's actions as "a serious crime against the United States" and found that "the fact is that [Seibel] knew very well what [he was] doing was wrong." Judge Pauley further stated, "Whatever the motivation for getting involved in this scheme and, more importantly, for continuing in the scheme for as long as he did...the fact is that it continued for many years, and he made a whole series of corrupt and misguided decisions to perpetuate it."

11. As Judge Pauley stated, this felony conviction relates to Seibel's actions to hide taxable income from the Internal Revenue Service beginning in 2004. Judge Pauley found that in March of 2004, Seibel traveled to UBS's offices in Switzerland and opened a number of UBS accounts while concealing his identity and taking steps to keep the accounts' existence secret from U.S. tax authorities.

12. Judge Pauley found that in or around May of 2008, after learning from a series of news articles about a government investigation into UBS's efforts to help wealthy Americans evade taxes, Seibel created a Panamanian shell company, of which Seibel was the beneficial owner. Judge Pauley found that Seibel then flew to Switzerland, closed his existing UBS accounts, and in an effort to avoid detection,

opened a bank account in the name of the Panamanian shell company in another Swiss bank.

13. Judge Pauley found that during this time, Seibel filed tax returns that failed to report his overseas income, and he falsely claimed that he did not have an interest or signing authority over a bank account in a foreign country.

14. Judge Pauley found that in the fall of 2009, Seibel learned of an amnesty program that allowed U.S. taxpayers to disclose their previously undeclared foreign accounts. Judge Pauley found that a lawyer for Seibel's mother then prepared an application for this amnesty program which falsely stated that Seibel was unaware of the status of the overseas account and believed that the deposits had been stolen or otherwise disappeared.

15. Seibel did not disclose his application for this amnesty program nor these criminal activities to GRUS or Mr. Ramsay at any time before or during the negotiation, execution or operation of the LLC Agreement and the Caesars Agreement as he was required to do.

Termination Of The Licensing Agreement Due To Seibel's Classification As An Unsuitable Person

16. Caesars became aware of Seibel's felony conviction, and, on September 2, 2016, sent notice to GRB and Mr. Ramsay that, in Caesars' judgment, the conviction rendered Seibel an Unsuitable Person under the Caesars Agreement. *See* Letter from M. Clayton to GR Burgr, LLC, et al., Sept. 2, 2016, attached hereto

as Exhibit 3. Caesars demanded the GRB terminate any relationship with Seibel within ten (10) days and provide Caesars with evidence of such terminated relationship. Caesars warned that if GRB failed to terminate its relationship with Seibel, Caesars would be required to terminate the Caesars Agreement pursuant to Section 4.2.5 thereof.

17. GRUS promptly requested that Seibel terminate his relationship with GRB and sign all necessary documents confirming such termination. *See* Letter from K. Gaut to B. Ziegler, Sept. 2, 2016, attached hereto as Exhibit 4; Letter from K. Gaut to B. Ziegler, Sept. 6, 2016, attached hereto as Exhibit 5.

18. Seibel did not comply with this request, proposing instead to transfer his interest in GRB to a family trust controlled by his attorney and his wife. *See* Letter from B. Ziegler to K. Gaut, Sept. 8, 2016, attached hereto as Exhibit 6.

19. GRUS rejected this proposal, as the arrangement would not terminate Seibel's association with GRB as required by the Caesars Agreement. *See* Letter from K. Gaut to B. Ziegler, Sept. 12, 2016, attached hereto as Exhibit 7. GRUS once again requested Seibel's cooperation in terminating his involvement in the Company in order to satisfy Caesars' demands. *Id.*

20. On September 15, 2016, GRUS informed Caesars that Mr. Ramsay and GRUS had demanded that Seibel terminate his interest in and association with GRB, and that Seibel had declined. *See* Letter from D. Reaser to M. Clayton, Sept. 15,

2016, attached hereto as Exhibit 8. GRUS also informed Caesars that Seibel had proposed to transfer his interest in GRB to a family trust controlled by his attorney and his wife, and that GRUS and Mr. Ramsay rejected that proposal because the arrangement would not terminate Seibel's association with GRB as required by the Caesars Agreement. *Id.* GRUS and Mr. Ramsay asked Caesars to confirm that Caesars agreed with the conclusion that Seibel's proposed transfer was not acceptable. *Id.*

21. On September 16, 2016, Caesars informed GRUS that Caesars had also determined that Seibel's proposed transfer was unacceptable. *See* Letter from M. Clayton to D. Reaser, Sept. 16, 2016, attached hereto as Exhibit 9.

22. On September 21, 2016, Caesars had not received evidence that GRB had disassociated itself with Seibel and therefore terminated the Caesars Agreement pursuant to Sections 4.2.5 and 11.2 of the Caesars Agreement, thus validly terminating the only income generating agreement that GRB had. *See* Letter from M. Clayton to GR Burgr, LLC, et al., Sept. 21, 2016, attached hereto as Exhibit 10.

COUNT I: JUDICIAL DISSOLUTION

23. Petitioner repeats and realleges the allegations set forth in the preceding paragraphs as if set forth fully herein.

24. The Company was formed with the purpose to plan, develop, build, and operate a first-class restaurant in the Planet Hollywood casino pursuant to the

Caesars Agreement between Caesars and GRB. GRB has no other restaurants or business activity.

25. Caesars has deemed Seibel an Unsuitable Person under the Caesars Agreement because of his felony conviction and terminated the Caesars Agreement because of GRB's association with Seibel. Without the Caesars Agreement, GRB has no business. Moreover, with Seibel's felony conviction, it is not reasonably practicable for GRB to pursue any future business because being associated with an Unsuitable Person such as Seibel has disqualified GRB from future business opportunities with Caesars and all other casinos and regulated businesses. In addition, due to Seibel's previous actions relating to GRB that GRUS deemed unacceptable, GRUS confirmed in 2014 that it would not consider nor allow GRB to enter into any other restaurant or business activity whatsoever.

26. All decisions of the Company must be made by a majority vote of the Managers of GRB, and Seibel, as one of the Company's two Managers, has refused all requests to cooperate in terminating his association with GRB. As such, the Managers are deadlocked as to the future of the Company. Moreover, the Managers of GRB do not meet and do not speak due to Seibel's criminal activities and his designation as an Unsuitable Person. There is no mechanism in the LLC Agreement to resolve this deadlock.

27. Section 13.1(c) of the LLC Agreement provides that the Company may be dissolved upon a decree of judicial dissolution pursuant to 6 *Del. C.* § 18-802.

28. For the foregoing reasons, and because it is not reasonably practicable to carry on the business of the Company in conformity with the LLC Agreement, the purpose of the business has been frustrated and the perpetuation of the Company would be futile. The judicial dissolution of GRB is necessary and appropriate and GRUS should not be prejudiced further by the actions of Seibel. The gaming regulators will require GRUS and Mr. Ramsay to completely disassociate from Seibel.

**COUNT II: DECLARATION THAT A DISSOLUTION EVENT HAS
OCCURRED PURSUANT TO THE LLC AGREEMENT**

29. Petitioner repeats and realleges the allegations set forth in the preceding paragraphs as if set forth fully herein.

30. Section 13.1(a) of the LLC Agreement provides that the Company shall be dissolved when “the LLC ceases its business operations on a permanent basis.”

31. GRB’s sole income generating asset—the Caesars Agreement—was terminated, and GRB as an entity has no income and cannot continue its operations without the Caesars Agreement. In light of Seibel’s refusal to disassociate himself from the Company, Caesars as a regulated business had no option but to terminate the Caesars Agreement and as a consequence GBR cannot continue business with Caesars. Moreover, GRUS is not willing to have GBR engage in any further business

activities whatsoever. Therefore, GRB has ceased its business operations on a permanent basis.

32. For the foregoing reason, the Petitioner seeks declaratory judgment that the Company is dissolved pursuant to Section 13.1(a) of the LLC Agreement.

PRAYER FOR RELIEF

WHEREFORE, GRUS respectfully requests that the Court enter an Order:

1. Dissolving the Company pursuant to 6 *Del. C.* § 18-802 and/or declaring that the Company is dissolved pursuant to Section 13.1(a) of the LLC Agreement;
2. Appointing Stuart Gillies as liquidating trustee of the Company to oversee the winding up of the Company's business and affairs;
3. Directing and approving that the business and affairs of the Company be wound-up, its assets liquidated in accordance with the Act and the LLC Agreement, and its filing of a certificate of termination pursuant to the Act;
4. Awarding GRUS its costs and expenses, including attorneys' fees; and
5. Granting such other relief as the Court deems proper and just.

POTTER ANDERSON & CORROON LLP

OF COUNSEL:

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By: /s/ Donald J. Wolfe, Jr.

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Dated: October 13, 2016
1235197

Attorneys for Petitioner GR US Licensing LP

EXHIBIT D



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

In re: GR Burgr, LLC

ROWEN SEIBEL,

Respondent and Counterclaim
Plaintiff,

v.

C.A. No. 12825-VCS

GR US LICENSING, LP,

Petitioner and Counterclaim
Defendant,

and

GR BURGR, LLC,

Nominal Defendant.

**ORDER DISSOLVING GR BURGR, LLC AND APPOINTING
LIQUIDATING TRUSTEE**

WHEREAS, on October 13, 2016, GR US Licensing, LP (“GRUS” or “Petitioner”) filed a Verified Petition for Judicial Dissolution of GR Burgr, LLC (the “Petition”), in which Petitioner sought an order of judicial dissolution of GR Burgr, LLC (“GRB”) pursuant to 6 *Del. C.* § 18-802, as well as the appointment of a liquidating trustee for the winding up of GRB pursuant to 6 *Del. C.* § 18-803;

WHEREAS, on November 23, 2016, Rowen Seibel filed an Answer to the Petition, in which he opposed the dissolution of GRB, and Verified Counterclaims Against GRUS on behalf of GRB (the “Delaware Counterclaims”);

WHEREAS, on December 13, 2016, Petitioner moved for judgment on the pleadings on its Petition (the “Motion”), and also moved to dismiss the Delaware Counterclaims and stay the Delaware Counterclaims pending resolution of the Motion;

WHEREAS, on January 3, 2017, the Court ruled that it would decide the Motion before addressing GRUS’s motion to dismiss the Delaware Counterclaims and stayed all other aspects of the case;

WHEREAS, on January 11, 2017, Seibel filed derivative claims on behalf of GRB in Nevada (the “Nevada Claims”); and

WHEREAS, the Court, having considered the merits of the Motion and, for the reasons set forth in its August 25, 2017 memorandum opinion (the “Memorandum Opinion”), and finding good cause for GRB to be dissolved and wound up under the supervision and authority of a liquidating trustee appointed by the Court who shall possess the broadest authority, consistent with the Delaware Limited Liability Company Act (the “Act”) to oversee the dissolution and winding up of GRB.

NOW, THEREFORE, this 5th day of October, 2017, IT IS HEREBY ORDERED, ADJUDGED and DECREED as follows:

1. The Motion. Having found good cause therefore, the Petitioner's Motion for Judgment on the Pleadings Concerning the Petition is hereby GRANTED.

2. Dissolution and Winding Up. Pursuant to 6 *Del. C.* § 18-802, the Court, having concluded that it is no longer reasonably practicable to carry on the business of GRB, hereby orders that GRB shall be deemed dissolved as of the date of this Order, and GRB's affairs shall be promptly wound up by a liquidating trustee under the direction of this Court and in accordance with the Act and the limited liability company agreement of GRB (the "LLC Agreement").

3. Appointment Of Liquidating Trustee. Pursuant to 6 *Del. C.* § 18-803(a), Kurt Heyman, Esq. is hereby appointed as the liquidating trustee of GRB (the "Liquidating Trustee") with the powers and duties specified in this Order.

4. Acceptance And Term of Appointment Of Liquidating Trustee. The Liquidating Trustee shall file in this Court a written acceptance of the appointment. The Liquidating Trustee shall serve at the pleasure of the Court, and the provisions of this Order shall remain in effect pending further Order of the Court.

5. General Powers Of Liquidating Trustee. The Liquidating Trustee shall have all the powers generally available to a trustee, custodian, or receiver

appointed pursuant to 6 *Del. C.* § 18-803, unless the exercise of any said power would be inconsistent with any specific provision of this Order or any other Order entered by the Court in this action. Upon appointment, the Liquidating Trustee shall have full control and dominion over the dissolution and liquidation of GRB and shall have access to all books and records of GRB.

6. Authority To Act. The Liquidating Trustee is authorized and empowered with the sole and exclusive authority to act through and in the name of GRB as necessary (a) to carry out all duties hereunder; (b) to identify and marshal the assets of GRB and liquidate those assets, including the Delaware Counterclaims (to the extent such claims are derivative) and Nevada Claims, in the manner the Liquidating Trustee determines is in the best interests of GRB; (c) to prosecute and defend any litigation by or on behalf of GRB; (d) to wind up the affairs of GRB in accordance with the terms of the Act and the LLC Agreement; and (e) to execute and/or deliver, or cause to be executed and/or delivered, all assignments, instruments, pleadings, and documents necessary to carry out the Liquidating Trustee's duties as outlined in this Order. The Liquidating Trustee also shall have authority, but shall not be required, to petition this Court for instructions at any time from time to time.

7. Waiver Of Duties. The provisions of Court of Chancery Rules 149-168, which apply to the duties of a receiver and/or liquidating trustee of limited

liability companies, are hereby waived and the Liquidating Trustee shall not be required to post a bond. In lieu of these provisions, the Liquidating Trustee shall provide interim summary reports to the Court every three months following the date of this Order, until the winding up is complete. The Liquidating Trustee will provide these interim reports to the Court via U.S. Mail, with copies to counsel of record for the parties in this action/and the Court will file a copy of each report on the docket upon receipt.

8. Reports To And Consultation With Members. The Liquidating Trustee may, to the extent deemed practical or necessary, consult with the members of GRB (“Members”) and/or their representatives with respect to the Liquidating Trustee’s performance of his various duties under this Order, but shall not be subject to their direction or control, and shall not be required to take any course of action the Members otherwise would or would not take. The Liquidating Trustee may periodically confer with the Members and/or their representatives by teleconference or in person, and, at the Liquidating Trustee’s sole discretion, may meet with the Members and/or their representatives individually or together. At any time, either Member may request assistance or action from the Liquidating Trustee. Such conferences shall occur at such intervals as the Liquidating Trustee deems appropriate, with the agenda for such conferences determined in advance to the extent reasonably possible. The Members, GRB, and their employees and

agents shall cooperate with the Liquidating Trustee and each other to wind up GRB and distribute GRB's assets as required by the LLC Agreement.

9. Presumptions; Good Faith Reliance. All actions taken by the Liquidating Trustee pursuant to this Order in the right of GRB to cause GRB to take action shall be presumed to be taken on an informed basis, in good faith, and in the honest belief that such actions taken were in the best interests of GRB. In causing GRB to take action, the Liquidating Trustee shall be fully protected to the fullest extent permitted by 6 *Del. C.* § 18–406 in relying in good faith upon the records of GRB and upon information, opinions, reports or statements presented by the Members, an officer or employee of GRB, or by any other person as to matters the Liquidating Trustee reasonably believes are within such other person's professional or expert competence, including information, opinions, reports or statements as to contracts, agreements or other undertakings that would be sufficient to pay claims and obligations of GRB or to make reasonable provision to pay such claims and obligations, or any other facts pertinent to the winding up of GRB.

10. Indemnification/Advancement And Exculpation. The appointment of the Liquidating Trustee hereunder shall be binding upon the officers, managers, employees, directors and Members of GRB. The Liquidating Trustee shall have no liability to GRB, its Members, or any other person for acts taken in good faith

pursuant to this Order, and none of the Members, nor any other person purporting to act as a director, manager, officer, employee, advisor or Member of GRB shall institute any legal proceeding other than in this Court challenging any action, recommendation, or decision by the Liquidating Trustee in performing the duties hereunder. The Liquidating Trustee shall be entitled to all protection, limitation from liability, and immunity available at law or in equity to a Court-appointed Liquidating Trustee including, without limitation, all protection, limitation from liability, and immunity provided by the indemnification provisions of applicable law. Expenses, including attorneys' fees, incurred by the Liquidating Trustee in defending any civil, criminal, administrative or investigative action, suit or proceeding arising by reason of or in connection with the Liquidating Trustee's designation as Liquidating Trustee for GRB, or in the performance of the duties hereunder, shall be paid by GRB, in advance of the final disposition of such action, suit or proceeding subject to the repayment of such amount if it shall be ultimately determined by this Court that the Liquidating Trustee is not entitled to be indemnified under applicable Delaware law.

11. Cancellation. Upon completion of the winding up of GRB and the distribution of the proceeds of dissolution pursuant to the LLC Agreement, the Liquidating Trustee shall execute and file a certificate of cancellation in the Office of the Secretary of State of the State of Delaware.

12. Compensation Of The Liquidating Trustee. The Liquidating Trustee shall be compensated by GRB at his usual hourly rate from the assets of GRB **as determined by the Liquidating Trustee.** Reasonable travel and other expenses incurred by the Liquidating Trustee shall be paid directly to the Liquidating Trustee by GRB from the assets of GRB. The Liquidating Trustee shall petition the Court quarterly, or at such other interval as the Court may direct, for approval of fees and expenses. Any fees and expenses approved by the Court shall be paid promptly by GRB from the assets of GRB.

13. Authority To Retain Advisors. If necessary, the Liquidating Trustee may retain counsel or other advisors to advise the Liquidating Trustee with respect to his or her duties under this Order, the Act, and the LLC Agreement. If the Liquidating Trustee is an attorney, the counsel retained by the Liquidating Trustee may be the law firm of which the Liquidating Trustee is a partner. The fees and expenses of any advisors retained by the Liquidating Trustee shall be paid by GRB from the assets of GRB.

14. Reservation of Jurisdiction. The Court reserves jurisdiction over this matter, including jurisdiction to consider any applications that the Liquidating Trustee may make for the Court's assistance in addressing any problems encountered by the Liquidating Trustee in performing his or her duties hereunder

and any applications by any party arising out of or related to any action or decision of the Liquidating Trustee or any of his or her agents.

SO ORDERED this 5th day of October, 2017.

/s/ Joseph R. Slights III

Vice Chancellor

EXHIBIT E

DECLARATION OF TIM BOWEN

I, Tim Bowen, declare as follows:

1. I am the Vice President of Food & Beverage for Caesars Enterprise Services, LLC, and act on behalf of each of the properties within that enterprise, including the Planet Hollywood Las Vegas Resorts & Casino, operated by PHWLTV, LLC ("Planet Hollywood"). I have served in this capacity since November 2014. I am competent to testify to the facts stated herein, as those facts are based upon my personal knowledge or information that is within the possession, custody, and control of Planet Hollywood. I make this declaration in support of Planet Hollywood's Opposition to Plaintiff's Motion for Preliminary Injunction.

2. Since Planet Hollywood's September 21, 2016 termination of the Development, Operation and License Agreement (the "Development Agreement") for the Gordon Ramsay BurGR Restaurant (the "BurgR Restaurant" or the "Restaurant"), Planet Hollywood has worked diligently to wind up the Restaurant's operations and move forward with other ventures without closing the restaurant and leaving a prime space vacant. To date, Planet Hollywood has changed signage in nineteen places inside and outside the restaurant, substituted cook coats, and is now retailing new and different items, such as shirts and hats that exhibit the new concept. Other changes are in the process, such as replacing menu items, china, and server shirts with the new logo and colors. Those changes will be complete by March 24, 2017. A new wall painting will be complete on March 21, 2017. The look, color scheme, and marketing pieces of the new restaurant are significantly different and continue to evolve.

3. The BurgR Restaurant was aggressively branded. Therefore, as part of the wind up of the operations, everything needed to be replaced and rebranded, from logo plates to beverage coasters, cocktail napkins, dinner napkins, to go bags, to go cups, burger picks, cocktail picks, fry cones, pens, beer glasses, retail sale hats, shirts, menus, all employee uniforms, and restaurant and identity signage both inside and outside of the restaurant and casino.

4. Because of the aggressive branding and the necessary time to order and receive replacements, the wind up period at the BurgR Restaurant has taken longer than that of the other Seibel-related restaurant formerly associated with Caesars, Serendipity 3. Serendipity 3 was not as

1 aggressively branded as the Burgr Restaurant, and the wind up of operations took place within a
2 similar contractual 120-day period.

3 5. As Planet Hollywood worked diligently through the steps of the wind up process at
4 the Burgr Restaurant, it was obvious that more than a 120 day wind up period was necessary. Upon
5 realization that more time was required, on or about January 5, 2017, Planet Hollywood told counsel
6 for GRUS, the only suitable member of GRB, that additional time was needed and that it would
7 complete the process as expeditiously as possible, by or before March 31, 2017.

8 6. GRUS did not object, and Planet Hollywood proceeded in its diligence under the
9 belief that the extended time was acceptable. For his part, Seibel did not object until he did so in
10 the complaint he filed on January 11, 2017.

11 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing
12 is true and correct and that I executed this declaration on this 17th day of March, 2017.

13
14 /s/ Time Bowen
TIM BOWEN

EXHIBIT F

DECLARATION OF BORIS PETKOV

I, Boris Petkov, declare as follows:

1. I am the Vice President of Finance for Caesars Enterprise Services, LLC, and act on behalf of each of the properties within that enterprise, including the Planet Hollywood Las Vegas Resorts & Casino, operated by PHWLTV, LLC ("Planet Hollywood"). I have served in this capacity since 2013. I am competent to testify to the facts stated herein, as those facts are based upon my personal knowledge or information that is within the possession, custody, and control of Planet Hollywood. I make this declaration in support of Planet Hollywood's Opposition to Plaintiff's Motion for Preliminary Injunction.

2. Because of Seibel's unsuitability requiring Planet Hollywood to terminate the Development, Operation and License Agreement (the "Development Agreement") on September 21, 2016, Planet Hollywood had concerns about making License Fee payments to GRB for use of the GR Marks during the wind up period given GRB's inability to disassociate with Seibel.

3. Therefore, since the termination of the Development Agreement, Planet Hollywood has accrued the License Fee for use of the GRB Marks (as defined therein) up to and including the present during the wind up of the operations of the Gordon Ramsay BurGR restaurant in the Planet Hollywood hotel.

4. Planet Hollywood cannot, without court order, make payments to an individual or entity associated with an unsuitable person without jeopardizing its license.

5. Although it was never requested, Planet Hollywood is ready, willing, and able to place the accrued license fees in escrow pending resolution of this matter or resolution of the GRB dissolution proceedings.

6. Planet Hollywood paid the License Fee as the Development Agreement required up to and until the termination, when it began accruing the fees, as discussed above. Up to March 8, 2016, the entire License Fee was paid to GRB and, upon information and belief, distributed to its two members equally. After March 8, 2016, Planet Hollywood paid 50% of the License Fee to a GRB bank account for distribution to Seibel, and the other 50% was paid to a different bank account

1 for distribution to GRB's other 50% member, GRUS. This was done at the instruction of Stuart
2 Gillies, GRB's Managing Member, per the Development Agreement.

3 7. In January, weeks after receiving the original Motion for Preliminary Injunction in
4 federal court, and when finalizing the Opposition, it came to Planet Hollywood's attention *that day*
5 that just *the day before* – on the 30th day of the month of the last quarter – the accounting department
6 mistakenly transferred payment of the accrued License Fee to GRUS. Demand was immediately
7 made on GRUS to return the mistaken funds. GRUS returned the funds on February 6, 2017, and
8 they remain accrued.

9 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing
10 is true and correct and that I executed this declaration on this 17th day of March, 2017.

11
12 /s/ Boris Petkov
BORIS PETKOV

EXHIBIT G

DECLARATION OF M. MAGALI MERCERA, ESQ.

I, M. MAGALI MERCERA, ESQ., declare as follows:

1. I am a resident of the State of Nevada, and an attorney with the law firm of PISANELLI BICE PLLC, counsel for Defendant/Counterclaimant PHWLTV, LLC ("Planet Hollywood") in the above-captioned action.

2. I make this declaration in support of Planet Hollywood's Opposition to Plaintiff's Motion for Partial Summary Judgment Concerning (1) the Payment of the License Fee through March 31, 2017, and (2) the Breach of § 14.21 of the Development Agreement (the "Opposition") filed concurrently herewith.

3. Attached as Exhibit A to the Opposition is a true and correct copy of the Declaration of Richard Casto, dated March 17, 2017.

4. Attached as Exhibit B to the Opposition is a true and correct copy of the Development, Operation, and License Agreement Among Gordon Ramsay, GR Burgr, LLC, and PHW Manager, LLC on behalf of PHW Las Vegas, LLC dba Planet Hollywood bearing Bates numbers GRB-00000038-81. The document was produced by Plaintiff during discovery. *See Orr v. Bank of Am., NT & SA*, 285 F.3d 764, 777 n.20 (9th Cir. 2002) (documents produced by a party in discovery are authentic when offered by a party-opponent.)

5. Attached as Exhibit C to the Opposition is a true and correct copy of the Verified Petition for Judicial Dissolution and Declaratory Judgment bearing Bates numbers GRB-00000026-37. The document was produced by Plaintiff during discovery. *See Orr*, 285 F.3d at 777 n.20 (documents produced by a party in discovery are authentic when offered by a party-opponent.)

6. Attached as Exhibit E to the Opposition is a true and correct copy of the Declaration of Tim Bowen, dated March 17, 2017.

7. Attached as Exhibit F to the Opposition is a true and correct copy of the Declaration of Boris Petkov, dated March 17, 2017.

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I declare under penalty of perjury that the foregoing is true and correct and that I signed
this declaration on this 5th day of October 2017.



M. MAGALI MERCERA

TAB 30



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Counsel for Defendant PHWLTV, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

ROWEN SEIBEL, an individual and citizen of
New York, derivatively as Nominal Plaintiff
on behalf of Real Party in Interest GR
BURGR, LLC, a Delaware limited liability
company;

Plaintiff,

vs.

PHWLTV, LLC, a Nevada limited liability
company; GORDON RAMSAY, an
individual;

Defendants.

and

GR BURGR, LLC, a Delaware limited liability
company,

Nominal Defendant.

PHWLTV, LLC, a Nevada limited liability
company;

Counterclaimant

vs.

ROWEN SEIBEL, an individual and citizen of
New York, DOES I through X and ROE
CORPORATIONS XI through XX,
Counter-defendant

Case No.: A-17-751759-B

Dept. No.: XV

REQUEST FOR JUDICIAL NOTICE

1 Pursuant to NRS 47.130, Defendant/Counterclaimaint PHWLTV, LLC ("Planet
2 Hollywood") hereby requests that this Court take judicial notice of the following document
3 attached to Planet Hollywood's Opposition to Plaintiff's Motion for Partial Summary Judgment
4 Concerning (1) the Payment of the License Fee through March 31, 2017, and (2) the Breach of §
5 14.21 of the Development Agreement (the "Opposition") filed concurrently herewith:

6 Exhibit D: October 5, 2017 Order Dissolving GR Burgr, LLC and Appointing Liquidating
7 Trustee entered in the case, *In Re GR BURGR, LLC*, C.A. No. 12825-VCS, in the Court of
8 Chancery of the State of Delaware.

9 Judicial notice of the Delaware Court of Chancery's decision is warranted. Pursuant to
10 NRS 47.130(2)(b), a fact is judicially noticeable if it is "[c]apable of accurate and ready
11 determination by resort to resources whose accuracy cannot reasonably be questioned, so that the
12 fact is not subject to reasonable dispute." Moreover, it is well-settled that courts may take judicial
13 notice of proceedings in related cases. *Occhiuto v. Occhiuto*, 97 Nev. 143, 145, 625 P.2d 568,
14 569 (1981) (providing that judicial notice of records in another case is warranted where the cases
15 have a "close relationship"). *In Re GR BURGR* is closely related to the case at bar because it
16 concerns the dissolution of the entity through which Nominal Plaintiff Rowen Seibel brings
17 derivative suit. Accordingly, Planet Hollywood respectfully requests that this Court take judicial
18 notice of Exhibit D to the Opposition.

19 DATED this 5th day of October 2017.

20 PISANELLI BICE PLLC

21 By: 

22 James J. Pisanelli, Esq., Bar No. 4027
23 Debra L. Spinelli, Esq., Bar No. 9695
24 M. Magali Mercera, Esq., Bar No. 11742
25 Brittanie T. Watkins, Esq., Bar No. 13612
26 400 South 7th Street, Suite 300
27 Las Vegas, Nevada 89101

28 *Counsel for Defendant PHWLTV, LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 5 day of October 2017, I caused to be sent via the Court's E-Filing/E-Service system, a true and correct copy of the above and foregoing **REQUEST FOR JUDICIAL NOTICE** to the following:

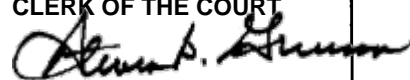
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PHWLTV, LLC

DISTRICT COURT
CLARK COUNTY, NEVADA

ROWEN Seibel, an individual and citizen of
New York, derivatively as Nominal Plaintiff
on behalf of Real Party in Interest GR
BURGR, LLC, a Delaware limited liability
company;

Plaintiff,

vs.

PHWLTV, LLC, a Nevada limited liability
company; GORDON RAMSAY, an
individual;

Defendants,

and

GR BURGR, LLC, a Delaware limited
liability company,

Nominal Defendant.

Case No.: A-17-751759-B

Dept. No.: XV

**PHWLTV, LLC'S OBJECTION TO
EVIDENCE OFFERED IN SUPPORT
OF PLAINTIFF'S MOTION FOR
PARTIAL SUMMARY JUDGMENT
CONCERNING (1) THE PAYMENT OF
THE LICENSE FEE THROUGH
MARCH 31, 2017, AND (2) THE
BREACH OF § 14.21 OF THE
DEVELOPMENT AGREEMENT**

Defendant/Counterclaimant PHWLTV, LLC ("Planet Hollywood"), by and through its undersigned counsel, hereby object to and move to strike the below-referenced exhibits which were submitted by Plaintiff/Counterdefendant Rowen Seibel ("Plaintiff" or "Seibel") in support of his Motion for Partial Summary Judgment Concerning (1) the Payment of the License Fee Through March 31, 2017, and (2) The Breach of § 14.21 of the Development Agreement ("Motion").

PISANELLI BICE PLLC
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

1 1. Planet Hollywood objects to Exhibit 2 to the Motion because it lacks foundation. It
2 is thus inadmissible. *Orr v. Bank of Am., NT & SA*, 285 F.3d 764, 773-79 (9th Cir. 2002).

3 2. Planet Hollywood objects to Exhibit 4 to the Motion because it is not authenticated.
4 Plaintiff did not include any affidavit from an individual with personal knowledge authenticating the
5 Exhibit or otherwise establish a proper foundation. It also constitutes hearsay to the extent Plaintiff
6 offers it to prove the truth of the matters asserted therein. It is thus inadmissible. *Orr*, 285 F.3d at
7 773-79.

8 3. Planet Hollywood objects to Exhibit 5 to the Motion because it is not authenticated.
9 Plaintiff did not include any affidavit from an individual with personal knowledge authenticating the
10 Exhibit or otherwise establish a proper foundation. It is thus inadmissible. *Orr*, 285 F.3d at 773-79.

11 4. Planet Hollywood objects to Exhibit 6 to the Motion because it is not authenticated.
12 Plaintiff did not include any affidavit from an individual with personal knowledge authenticating the
13 Exhibit or otherwise establish a proper foundation. It is thus inadmissible. *Orr*, 285 F.3d at 773-79.

14 5. Planet Hollywood objects to Exhibit 7 to the Motion because it is not authenticated.
15 Plaintiff did not include any affidavit from an individual with personal knowledge authenticating the
16 Exhibit or otherwise establish a proper foundation. It is thus inadmissible. *Orr*, 285 F.3d at 773-79.

17 DATED this 5th day of October 2017.

18 PISANELLI BICE PLLC

19 By: 

20 James J. Pisanelli, Esq., Bar No. 4027
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26 *Attorneys for Defendant/Counterclaimant*
27 *PHWLIV, LLC*
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC, and that on this 5 day of October 2017, I caused to be sent via the Court's E-Filing/E-Service system, a true and correct copy of the above and foregoing **PHWLTV, LLC'S OBJECTION TO EVIDENCE OFFERED IN SUPPORT OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT CONCERNING (1) THE PAYMENT OF THE LICENSE FEE THROUGH MARCH 31, 2017, AND (2) THE BREACH OF § 14.21 OF THE DEVELOPMENT AGREEMENT** properly addressed to the following:

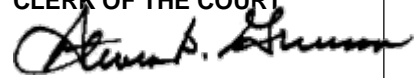
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DISTRICT COURT

CLARK COUNTY, NEVADA

ROWEN SEIBEL, an individual and citizen of
New York, derivatively on behalf of Real Party in
Interest GR BURGR LLC, a Delaware limited li-
ability company;

Plaintiff,

vs.

PHWLTV, LLC a Nevada limited liability compa-
ny; GORDON RAMSAY, an individual; DOES I
through X; ROE CORPORATIONS I through X,

Defendant,

GR BURGR LLC, a Delaware limited liability
company,

Nominal Defendant.

Case No.: A-17-751759-B
Dept No.: XV

**DEFENDANT GORDON RAMSAY'S
OPPOSITION TO PLAINTIFF'S MO-
TION FOR PARTIAL SUMMARY
JUDGMENT CONCERNING (1) THE
PAYMENT OF THE LICENSE FEE
THROUGH MARCH 31, 2017, AND (2)
THE BREACH OF § 14.21 OF THE
DEVELOPMENT AGREEMENT**

Defendant Gordon Ramsay respectfully submits his opposition to Plaintiff's Motion For Partial Summary Judgment Concerning (1) The Payment of the License Fee Through March 31, 2017, and (2) the Breach of § 14.21 of the Development Agreement filed by Plaintiff Rowen Seibel, appearing derivatively on behalf of GR BURGR, LLC ("GRB").

INTRODUCTION

In February 2017, Seibel filed this derivative action and immediately moved for a preliminary injunction in a bid to disrupt the ongoing dissolution proceedings of GRB in Delaware Chancery Court. Seibel attempted to obtain an injunction in this court rescinding PHWLTV, LLC's termination of the GRB development agreement, so he could argue in the dissolution case that GRB was still a viable entity with ongoing business, and need not be dissolved and liquidated. This Court correctly denied Seibel's injunction motion, finding that Seibel is unlikely to succeed on the merits of *any* of his claims brought on behalf of GRB.

On August 25, 2017, the Delaware Court entered its opinion ordering the judicial dissolution of GRB, over Seibel's objection, dissolving the company and stating the Court's intention to appoint a liquidating trustee who will, "in addition to those powers granted under 6 *Del. C.* § 18-803(b), assess the counterclaims pending here *and the claims in the Nevada Action* in determining whether any action should be taken on behalf of GRB in connection with such claims." *In re: GR BURGR, LLC*, CV 12825-VCS, 2017 WL 3669511, at *11 (Del. Ch. Aug. 25, 2017)(emphasis added).¹ On October 5, 2017, The Delaware Court entered its Order Dissolving GR Burgr, LLC and Appointing Liquidating Trustee.² That order appoints a liquidating trustee for GR Burgr, LLC, Kurt Heyman, Esq., sets forth the trustee's powers pursuant to the Memorandum Opinion and 6 *Del. C.* § 18-803(b), and gives the trustee "full control and dominion over the dissolution and liquidation of GRB." *See* Ex. 2 at p. 4. The order grants the trustee the "sole and exclusive authority to act through and in the name of GRB as necessary (a) to carry out all duties hereunder; (b) to identify and marshal the assets of GRB and liquidate those assets, including the . . . Nevada Claims, in the manner the Liquidating Trustee determines is in the best interests of GRB; (c) to prosecute and defend any litigation by or on behalf of GRB; (d) to wind up the affairs of GRB in accordance with the terms of the Act and the LLC Agreement; and (e) to execute and/or deliver, or

¹ A copy of the Delaware Court's Memorandum Opinion is attached as Exhibit 1 to the Declaration of Jacqueline A. Rogers, which is Exhibit A hereto.

² A copy of the Delaware Court's Order Dissolving GR Burgr, LLC and Appointing Liquidating Trustee is attached as Exhibit 2 to the Declaration of Jacqueline A. Rogers.

1 cause to be executed or delivered, all assignments, instruments, pleadings, and documents neces-
2 sary to carry out the Liquidating Trustee's duties as outlined in this Order." *Id.*

3 As a result of the appointment and the Delaware order, Seibel now lacks standing to prose-
4 cute this case on behalf of GRB. It will be up to the Liquidating Trustee to decide whether to pros-
5 ecute, settle, or abandon this action, and indeed whether to seek partial summary judgment on the
6 company's behalf. This court should not entertain Seibel's attempt to sneak in before he was di-
7 vested of standing he may have had to sue on behalf of the company with his hastily-prepared mo-
8 tion, but should rather defer consideration of the motion until the Trustee can determine whether
9 he wishes to pursue the motion, and indeed this case, or not. If this court nevertheless wishes to
10 entertain the motion, it should be denied.

11 **STATEMENT OF FACTS**

12 The material facts related to (1) the creation of GRB and its relationship with PHWLTV,
13 LLC ("PH"); (2) the relevant gaming commission regulations and their impact on the Develop-
14 ment Agreement; (3) the deteriorating relationship between Ramsay and Seibel and the resulting
15 deadlock at GRB; and (4) Seibel's felony conviction and termination of the Development Agree-
16 ment are set forth at length in the "Factual Background" section of Ramsay's Opposition to Plain-
17 tiff's Motion for Preliminary Injunction filed on March 17, 2017 at pages 4-11. Rather than restate
18 those facts here, Ramsay cites to and incorporates the "Factual Background" from his earlier oppo-
19 sition by reference, including the supporting exhibits and declarations attached thereto.

20 The only new material fact to have developed since the Court denied Seibel's motion for
21 preliminary injunction is the Delaware Court's dissolution of GRB and appointment of the liqui-
22 dating trustee. In rejecting Seibel's appeal to equitable principles to avoid dissolution, the Dela-
23 ware Court concluded: "Seibel cannot reasonably expect that this court would indefinitely lock
24 Ramsay in a failed joint venture and thereby preclude him from ever engaging in a business that
25 bears resemblance to GRB—a restaurant business that exploits Ramsay's celebrity to sell one of
26 the most popular and beloved food preparations in all of history." Ex. 1 at *11. Nor should this
27 court credit Seibel's plain misreading of the Development Agreement to accomplish the same
28 goal- to lock PH or Ramsay to GRB despite the disrepute Seibel has brought to that entity.

LEGAL STANDARD

A party moving for summary judgment must “demonstrate both the absence of genuinely contested material facts as well as a prima facie entitlement to judgment as a matter of law based upon undisputed evidence that would be admissible at trial.” *Nutton v. Sunset Station, Inc.*, 131 Nev. Adv. Op. 34, 357 P.3d 966, 974 (Nev. App. 2015). “Only after both showings have been made does the burden shift to the opposing party to prove the existence of genuinely disputed material facts.” *Id.*; NRCP 56(e). Evidence in support of summary judgment must be evidence that would be admissible at trial and viewed in a light most favorable to the nonmoving party. *See Wood v. Safeway, Inc.*, 121 Nev. 724, 732, 121 P.3d 1026, 1031 (2005). Unless and until all of these “highly specific evidentiary and procedural requirements” are satisfied summary judgment cannot be granted. *Nutton*, 131 Nev. Adv. Op. 34, 357 P.3d at 975.

ARGUMENT

I. The Court Should Not Consider Seibel’s Motion as the Delaware Court Stripped Seibel of Standing.

As stated above, Seibel lacks standing to pursue derivate claims on behalf of GRB, as the Delaware Court has now appointed a liquidating trustee and conferred upon that trustee the exclusive power to act on behalf of GRB and to litigate claims in its name. This Court should defer ruling on Seibel’s motion until the trustee has had a chance to assess this action and determine how he will proceed in this case. If the court is inclined to rule on the motion, however, it should be denied.

II. Seibel’s Claim Related to GRB’s Entitlement to the License Fee Through March 31, 2017 Misstates Critical Facts.

Seibel first argues that GRB should be awarded summary judgment on the issue of the company’s entitlement to be paid the License Fee by PH pursuant to the Development Agreement for the period from termination of the Development Agreement in September 2016 through March 31, 2017. (*See* Mot. at 5.) This claim is not asserted against Ramsay, so Ramsay need not respond to the motion on this ground, except to correct the following misrepresentation contained in the motion: “It should also be noted that although it has refused to pay the License Fee to GRB follow-

1 ing the termination of the Agreement in September 2016, PH has continued to pay 50% of the Li-
2 cense Fee directly to GRUS, as it also admits in its injunction opposition.” (*Id.*)

3 It is simply not true that PH has continued to pay 50% of the License Fee to GRUS follow-
4 ing the termination date. It has not. Prior to March 8, 2016, and covering the period through termi-
5 nation of the Development Agreement on September 21, 2016, all payments of the License Fee
6 were made to GRB and divided equally between Seibel and GRUS. (*See* Ex. B, First Decl. of Da-
7 vid Kerr at ¶ 3.) After March 8, 2016 and through termination of the Development Agreement,
8 those payments were made 50% to GRUS and 50% to GRB for benefit of Rowen Seibel. (*Id.*)
9 GRUS has received no payments of the license fee for the period following termination, except for
10 an erroneous payment in January, 2017, which was immediately returned. (*Id.* at ¶ 4.)

11 Nor is it true that PH “admitted” as much in its opposition to the motion for preliminary in-
12 junction. Seibel cites PH’s opposition to the motion for preliminary injunction at page 18 as sup-
13 port for this claimed admission. (*See* Mot. at 5, n.11.) What that opposition and the Declaration of
14 Boris Petkov supporting that discussion actually establish, however, is that PH paid the license fee
15 “up to and until the termination, when it began accruing the fees.” (*See* Petkov Dec. at ¶ 6.)³ Nei-
16 ther PH’s prior opposition nor the Petkov declaration admits that PH paid anyone the License Fees
17 for the period following the termination, and Seibel’s claim to the contrary is both false and un-
18 supported by even a shred of evidence.

19 **III. Neither PH Nor Ramsay Breached § 14.21 of the Development Agreement.**

20 Seibel claims that PH and Ramsay breached § 14.21 of the Development Agreement per-
21 taining to “Additional Restaurants” by opening a restaurant named Gordon Ramsay Burger with-
22 out entering into a contractual agreement with GRB. (*See* Mot. at 5-7.) This claim, which is de-
23 feated by simply reading the plain language of the provision it is based on, was raised as one of the
24 bases for Seibel’s motion for preliminary injunction in this case. (*See* Pl’s Mot. for Preliminary
25 Injunction at 17-18 (March 7, 2017).) This Court denied that motion, finding that Seibel had
26 shown no reasonable likelihood of success as to any of those claims. (*See* Order Denying Prelimi-
27

28 ³ That declaration is attached as an exhibit to PH’s opposition to the motion for preliminary in-
junction.

1 nary Injunction (April 4, 2017).) Now, without the benefit of any discovery or additional evidence,
2 Seibel asserts he is entitled to judgment as a matter of law on that same claim, based on that same
3 provision. But Seibel was wrong before, and is wrong now. This claim has no merit.

4 The very reason the parties are before this court is because Seibel violated U.S. tax laws,
5 concealed that violation from Gordon Ramsay and Planet Hollywood, then concealed the fact that
6 he had pled guilty to that felony charge and was sentenced to a term of federal imprisonment. (*See*
7 Ramsay’s Oppn to Pl’s Motion for Preliminary Injunction at 4-11 (March 17, 2017).) When Planet
8 Hollywood and Caesars learned of Seibel’s conduct, plea, and sentencing, they notified GRB that
9 PH would terminate the Development Agreement unless Seibel was permanently disassociated
10 from GRB. (*See id.*) Because Seibel declined to separate himself from the entity, PH determined,
11 as is was entitled to do under the agreement, that Seibel, and therefore GRB, were unsuitable per-
12 sons, which PH would not and could not continue to do business with without jeopardizing its val-
13 uable gaming and liquor licenses. (*See id.*)

14 Now, Seibel’s argues that he is entitled to judgment as a matter of law under § 14.21 of the
15 Development Agreement because the new restaurant PH opened—after it was forced *by Seibel’s*
16 *conduct* to close the successful BurGR Gordon Ramsay—was not also contracted with GRB. But
17 GRB was the *same entity* PH just determined could jeopardize its very existence as a gaming com-
18 pany. Seibel’s argument that PH is forever barred from opening a burger centric restaurant at its
19 property without GRB is meritless.

20 **A. Section 14.21 Does Not Prohibit PH and Ramsay From Operating a**
21 **Burger Restaurant.**

22 In interpreting a contract, “the court shall effectuate the intent of the parties, which may be
23 determined in light of the surrounding circumstances if not clear from the contract itself.” *Anvui,*
24 *LLC v. G.L. Dragon, LLC*, 123 Nev. 212, 215–16, 163 P.3d 405, 407 (2007) (quotation omitted.)
25 In this case, the language of the section of the Development Agreement cited by Seibel is clear and
26 unambiguous. It should therefore be enforced as written. *Washoe Cty. Sch. Dist. v. White*, 133
27 Nev. Adv. Rep. 43, 396 P.3d 834, 838 (2017). Plainly read, Section 14.21 does not “prohibit” PH
28 or Ramsay from doing anything. The court need only read the provision to dispose of this argu-

1 ment. Section 14.21 governs “Additional Restaurant Projects” and states: “If PH elects to pursue
2 any venture similar to the Restaurant (i.e. any venture generally in the nature of a burger centric or
3 burger themed restaurant), **GRB shall**, or shall cause an Affiliate to, execute a development, oper-
4 ating and license agreement generally on the same terms and conditions as this Agreement. . . .”
5 (See Ex. [xx], Development Agreement at 34, §14.21 (emphasis added).) The unambiguous text
6 Section 14.21 represents an obligation of GRB—not PH. And it certainly does not describe an ob-
7 ligation of Ramsay. **Ramsay is not even mentioned in §14.21.** (See *id.*) Because Ramsay had no
8 contractual obligations under that section, he could not have breached those nonexistent obliga-
9 tions. On this basis alone, Seibel’s breach of contract claim as to Ramsay fails.

10 Seibel’s claim that §14.21 obligates PH or Ramsay to partner with GRB to operate a burg-
11 er related venture at PH’s property is an outright mischaracterization of that Section. So is Seibel’s
12 claim that §14.21 prohibits PH and Ramsay from pursuing future collaborations. Section 14.21
13 plainly provides that if, and only if, PH elects to pursue an additional burger-themed restaurant,
14 then GRB, or its Affiliate(s), will be obligated to enter into a similar agreement with PH. PH has
15 made clear that it will not, nor can it, pursue additional restaurants with GRB. Neither PH nor
16 Ramsay can be held liable for breach of § 14.21 as it does not obligate either party to enter into an
17 agreement with GRB. Accordingly, Seibel’s claim premised on a breach of § 14.21 fails as a mat-
18 ter of law.⁴

19 Even if this court were to determine that §14.21 is ambiguous, and the parties could have
20 intended it to create some obligation on the part of PH, then summary judgment on this ground
21 would be inappropriate. A contract is ambiguous when it is subject to more than one reasonable
22 interpretation. *Anvui, LLC*, 123 Nev. at 215–16, 163 P.3d at 407. The parties’ intentions regard-

23
24 ⁴ Seibel references improperly authenticated exhibits that he claims support the fact that Gordon
25 Ramsay Burger restaurant offers burgers on its menu. (See Mot. at 6.) He even notes the hot dog
26 to burger ratio on the menu as a basis to support his contention that the restaurant is “burger-
27 centric.” (See *id.*) Because Seibel cannot establish that GRB entitled to judgment as a matter of
28 law for breach of the Section 14.21, even if the restaurant is indeed “burger-centric” or burger
related, the burden under NRCP 56 does not shift to Ramsay to offer contrary facts. See *Cuzze v.*
Univ. & Cmty. Coll. Sys. of Nev., 123 Nev. 598, 602–03, 172 P.3d 131, 134 (2007) (moving par-
ty must make initial showing of both an absence of genuinely disputed material facts as well as
entitlement to judgment as a matter of law before burden shifts to opposing party).

ing a contractual provision present a question of fact. *Id.* Summary judgment prior to any discovery in the case would therefore be inappropriate.

B. PH Entered Into an Agreement with an “Affiliate” of GRB.

Even if §14.21 were construed to be bilateral, contrary to its plain language, and to reflect the plan intention of the parties (which it does not), PH actually did enter into an agreement on substantially the same terms with an “Affiliate” of GRB. PHWLTV, LLC, RB Restaurant Ventures, LLC (“RBR”) entered into a license agreement to operate a restaurant known as “Gordon Ramsay Burger” at Planet Hollywood. (*See* Ex. C, Second Decl. of Kerr at ¶ 3.) That agreement recites generally the same terms and conditions as the Development Agreement between GRB and PH. (*Id.*) Both Ramsay and RBR are “Affiliates” of GRB.

The Development Agreement defines the term “Affiliate” to mean “with respect to a specified Person, any other Person who or which is directly or indirectly controlling, controlled by or under common control with the specified Person, or any member, stockholder or comparable principal of, the specified Person or such other Person. For purposes of this definition, “control”, “controlling”, “controlled” mean the right to exercise, directly or indirectly, at least five percent (5%) of the voting power of the stockholders, members or owners and, with respect to any individual, partnership, trust or other entity or association, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled Person.” (*See* Ex. 1 to Plaintiff’s Motion for Preliminary Injunction, Development Agreement, at 1.)

1. Ramsay is an “Affiliate” of GRB.

First, Ramsay is an “Affiliate” of GRB because he directly or indirectly controls at least five percent of the voting power of GRB. GRB is a Delaware limited liability company, formed by Ramsay, through GRUS and Seibel. (*See* Ex. 3 to Plaintiff’s Motion for Preliminary Injunction, at 1, GRB Operating Agreement.) GRUS and Seibel each own a 50% member interest in GRB. (*See id.* at 8, § 7.2.) GRUS is a Delaware limited partnership consisting of Kavalake Ltd., Ramsay, and GR US General Partner LLC. (Ex. B to Ramsay’s Opposition to Mot. for Preliminary Injunction, Exhibit (January 31, 2017), Kerr Decl at 1, ¶ 5). Kavalake Ltd., is a United Kingdom limited company owned by Ramsay and his wife. (*Id.* at 1, ¶ 4 & Exs. 1, 2 thereto) GR US General Part-

ner LLC is a Delaware limited liability company whose sole member is Kavalake Ltd. (*Id.* at 1, ¶ 5.) Accordingly, Ramsay controls GRUS, which in turn controls 50% of GRB. Because Ramsay indirectly controls more than five percent of GRB, Ramsay is an Affiliate of GRB.

2. RBR is an “Affiliate” of GRB.

RBR is an “Affiliate” of GRB because it is under common control with GRB. As noted above, Ramsay indirectly controls 50% of the voting power of GRB through GRUS. Ramsay also indirectly controls RBR. RBR is a Nevada LLC, formed by Ramsay, through GR US Topco LLC. (*See* Ex. C, Second Decl. of Kerr ¶ 4.) GR US Topco LLC owns 100% of RBR. (*See id.*) GR US Topco LLC is wholly-owned and controlled by Kavalake Ltd., a UK limited company owned by Ramsay and his wife. (*See id.*) Through Kavalake Ltd. and GR Us Topco LLC, Ramsay controls 100% of the voting power of RBR. Because Ramsay and Kavalake both commonly control both of RBR and GRB, RBR is an “Affiliate” of GRB as that term is defined under the Development Agreement. PHW therefore did enter into an agreement with an “affiliate” of GRB for the operation of the new restaurant Gordon Ramsay Burger.⁵

CONCLUSION

Section 14.21 of the Development Agreement does not require PH or Ramsay to contract with GRB to operate a restaurant that features hamburgers on its menu. Nor does it prohibit PH and Ramsay from operating Gordon Ramsay Burger. For the foregoing reasons, Seibel’s motion for partial summary judgment should be denied.

Dated: October 6, 2017

FENNEMORE CRAIG, P.C.

/s/ Allen J. Wilt

ALLEN J. WILT (SBN 4798)

JOHN D. TENNERT (SBN 11728)

300 E. 2nd Street, Suite 1510

Reno, Nevada 89501

Tel: (775) 788-2200

Attorneys for Gordon Ramsay

⁵ Seibel’s mention in passing that it was not GRB that “caused” its affiliate to enter into an agreement with PH is of no moment. His whole argument on this ground is premised on the fiction that §14.21 imposes some obligation on PH to enter into an agreement with GRB, PH cannot logically be found to have breached an agreement because the complaining party’s own performance was initiated by its affiliate.

CERTIFICATE OF SERVICE

I certify that I am an employee of FENNEMORE CRAIG, P.C., and that on this date, pursuant to FRCP 5(b), I am serving a true and correct copy of the attached DEFENDANT GORDON RAMSAY'S OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT CONCERNING (1) THE PAYMENT OF THE LICENSE FEE THROUGH MARCH 31, 2017, AND (2) THE BREACH OF § 14.21 OF THE DEVELOPMENT AGREEMENT on the parties set forth below by:

_____ Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, at Reno, Nevada, postage prepaid, following ordinary business practices

_____ Certified Mail, Return Receipt Requested

_____ Via Facsimile (Fax)

_____ Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered

_____ Federal Express (or other overnight delivery)

 X E-service effected by CM/ECF

addressed as follows:

Daniel R. McNutt
Matthew C. Wolf
CARBAJAL & MCNUTT, LLP
625 South Eighth Street
Las Vegas, NV 89101

James Pisanelli, Esq.
Debra Spinelli, Esq.
Brittnie Watkins, Esq.
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Certilman Balin Adler & Hyman, LLP
90 Merrick Avenue, 9th Floor
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Attorneys for PHWLVL LLC

Attorneys for Plaintiff

Dated: October 6, 2017

/s/ Meg Byrd
An employee of FENNEMORE CRAIG, P.C.

EXHIBIT A

1 **DECLARATION OF JACQUELINE A. ROGERS, ESQ.**
2 **IN SUPPORT OF DEFENDANT GORDON RAMSAY'S OPPOSITION TO**
3 **MOTION FOR PARTIAL SUMMARY JUDGMENT**

4 I, Jacqueline A. Rogers, declare and say as follows:

5 1. I am duly licensed to practice law in the State of Delaware. I am an attorney with
6 the law firm of Potter Anderson & Corroon LLP and am one of the attorneys representing GR
7 US Licensing LP in a legal proceeding in Delaware Court of Chancery, entitled *In Re: GR Burgr,*
8 *LLC*, C.A. No. 12825-VCS (the "Delaware Dissolution Action"). As such, I have personal
9 knowledge of the matters stated herein.

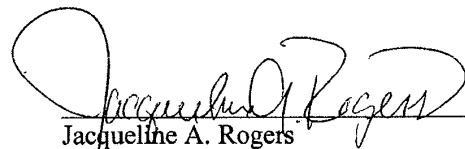
10 2. I make this Declaration in support of Defendant Gordon Ramsay's Opposition to
11 Motion for Partial Summary Judgment.

12 3. Attached hereto as Exhibit 1 is a true and correct copy of the court's
13 Memorandum Opinion filed August 25, 2017 in the Delaware Dissolution Action.

14 4. Attached hereto as Exhibit 2 is a true and correct copy of the court's Order
15 Dissolving GR Burgr, LLC and Appointing Liquidating Trustee, entered October 5, 2017 in the
16 Delaware Dissolution Action.

17 I declare under penalty of perjury under the laws of the State of Nevada that the
18 foregoing is true and correct, except as to those matters stated upon information and belief, and
19 as to those matters, I believe them to be true.

20 Dated: October 5, 2017



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EXHIBIT 1



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE: GR BURGR, LLC

GR US LICENSING, LP,

Petitioner,

v.

ROWEN SEIBEL,

Respondent.

ROWEN SEIBEL,

Respondent and
Counterclaim Plaintiff,

v.

GR US LICENSING, LP,

Petitioner and
Counterclaim Defendant,

and

GR BURGR, LLC,

Nominal Defendant.

C.A. No. 12825-VCS

MEMORANDUM OPINION

Date Submitted: June 20, 2017

Date Decided: August 25, 2017

Paul D. Brown, Esquire, Joseph B. Cicero, Esquire and Stephanie S. Habelow, Esquire of Chipman Brown Cicero & Cole LLP, Wilmington, Delaware, and Paul B. Sweeney, Esquire of Certilman Balin Adler & Hyman, LLP, East Meadow, New York, Attorneys for Respondent/Counterclaim Plaintiff Rowen Seibel.

Donald J. Wolfe, Jr., Esquire, Timothy R. Dudderar, Esquire and Jacqueline A. Rogers, Esquire of Potter, Anderson & Corroon LLP, Wilmington, Delaware, and Paul D. Montclare, Esquire and Jacob Albertson, Esquire of Mitchell Silberberg & Knupp LLC, New York, New York, Attorneys for Petitioner/Counterclaim Defendant GR US Licensing LP.

SLIGHTS, Vice Chancellor

Petitioner, GR US Licensing, LP (“GRUS”), has petitioned for judicial dissolution of GR BURGR, LLC (“GRB” or the “Company”) pursuant to 6 *Del. C.* § 18-802 (“Section 18-802”). In 2012, GRUS, an entity affiliated with celebrity chef Gordon Ramsay, partnered with Respondent, Rowen Seibel, to form GRB for the purpose of developing and operating first-class burger-themed restaurants. The only revenue-generating business GRB has launched since its formation is reflected in a Development, Operation and License Agreement (the “Caesars Agreement”) between GRB and an affiliate of Caesars Entertainment Corporation (“Caesars”), pursuant to which GRB licensed and sublicensed certain trademarks and other intellectual property for Caesars’s use in a burger-themed restaurant in the Planet Hollywood Resort & Casino in Las Vegas, Nevada (“Planet Hollywood”).

In 2016, Seibel was convicted of a felony tax-related offense. Upon learning of this conviction, Caesars terminated the Caesars Agreement. According to Caesars, any further business relationship with Seibel, or any business with which he is affiliated, would place Caesars in violation of Nevada gaming regulations. In part based on this development, GRUS (and Ramsay) now seek to dissolve GRB and to disassociate from Seibel in order to avoid any further reputational or other harm he might bring to them.

GRUS has moved for judgment on the pleadings. According to GRUS, the facts as admitted by Seibel demonstrate, as a matter of law, that it is no longer

“reasonably practicable” for GRB to carry on its business in conformity with its operating agreement and, therefore, dissolution of the entity is appropriate under Section 18-802. For the reasons explained below, I agree. The motion for judgment on the pleadings is GRANTED.

I. BACKGROUND

I draw the facts from GRUS’s Verified Petition for Judicial Dissolution and Declaratory Judgment (the “Petition”), Seibel’s Answer to the Petition (the “Answer”), the documents incorporated in these pleadings by reference and facts of which I may take judicial notice.¹

A. The Creation, Governance and Business of GRB

GRB is a Delaware limited liability company formed in December 2012 by Ramsay (through his entity GRUS) and Seibel.² GRUS and Seibel each own a 50% membership interest in GRB.³ Each is entitled to designate one manager of GRB;

¹ *McMillan v. Intercargo Corp.*, 768 A.2d 492, 500, 501 n.40 (Del. Ch. 2000). Without any basis in the Court of Chancery rules or case law, Seibel asserts that I should also accept all facts as pled in his counterclaims as true because GRUS has not answered them. I ruled on January 3, 2017, that I would first address Petitioner’s motion for judgment on the pleadings before addressing Seibel’s counterclaims, and therefore the relevant pleadings for purposes of this motion are GRUS’s Petition and Seibel’s Answer.

² Answer to Verified Pet. for Judicial Dissolution and Declaratory J. (“Answer”) ¶ 5; Verified Pet. for Judicial Dissolution and Declaratory J. (“Pet.”) Ex. 1 (“LLC Agreement”), at Recitals.

³ LLC Agreement, at § 7.2; Answer ¶ 5.

GRUS appointed non-party Stuart Gillies and Seibel designated himself.⁴ The LLC Agreement gives the managers the “full and exclusive right, power and authority to manage all of the business and affairs of the Company.”⁵ All decisions made by the managers require a majority vote—meaning the two managers must act unanimously.⁶ If the two managers cannot reach unanimous agreement, the LLC Agreement offers no mechanism by which to break that deadlock.⁷ The LLC Agreement provides that GRB will be dissolved upon or under the following events or circumstances: “(a) the LLC ceases its business operations on a permanent basis; (b) the sale or transfer of all or substantially all of the assets of the LLC; (a) [sic] the entry of a decree of judicial dissolution; or (b) [sic] as otherwise determined by the Managers.”⁸

⁴ LLC Agreement, at § 8.2; Answer ¶ 6.

⁵ LLC Agreement, at § 8.1.

⁶ *Id.* This is true as to all decisions other than those relating to the License Agreement with GRUS, described below, as to which the LLC Agreement provides: “It is acknowledged that GRUS and the GRUS Manager are interested parties with respect to the License Agreement. Accordingly, so long as the Company is controlled by GRUS and Seibel, or Seibel, and/or their respective affiliates, any decision to be made by the Company with respect to the License Agreement shall be made by the Seibel Manager acting reasonably and in good faith, unless expressly provided otherwise herein.” *Id.* at § 8.11.

⁷ *See generally id.* at § 8.

⁸ *Id.* at § 13.1.

GRB's stated business purpose is to own, develop, operate, and license the development of first-class burger-themed restaurants.⁹ Along with the execution of the LLC Agreement, GRB and GRUS executed an agreement whereby GRUS licensed to GRB the trademark "BURGR Gordon Ramsay" (the "License Agreement").¹⁰ Soon after its formation, GRB developed and is now the sole owner of the trademarks "BURGR" and "GR BURGR."¹¹ It also developed the burger restaurant concept, menu and recipes, which along with the trademarks, the LLC Agreement defines as "Company Rights."¹²

On December 13, 2012, GRB entered into the Caesars Agreement with Caesars, pursuant to which GRB provided to Caesars a sublicense to use the name "BURGR Gordon Ramsay," and a license to use certain recipes, menus and other trade property developed by GRB, for use in the "BURGR Gordon Ramsay" restaurant in Planet Hollywood.¹³ In exchange for the sublicense and license,

⁹ LLC Agreement, at Recitals, § 4.

¹⁰ *Id.* at Recitals; Answer ¶ 5; Transmittal Aff. of Jacqueline A. Rogers in Supp. of Pet'r's Opening Br. in Supp. of its Mot. for J. on the Pleadings ("Rogers Transmittal Aff."), Ex. 1 ("License Agreement").

¹¹ Answer ¶ 5. According to Seibel, shortly after the filing of the Petition, beginning on October 19, 2016, and at various times thereafter, Gordon Ramsay has attempted to secure for himself trademark protection for the name "Gordon Ramsay Burger." Resp't and Countercl. Pl. Rowen Seibel's Req. for Judicial Notice (DI 27) Ex. A–C.

¹² Answer ¶ 5; LLC Agreement, at Recitals.

¹³ Pet. Ex. 2 ("Caesars Agreement"), at Recitals, § 6.

Caesars agreed to pay GRB license fees based on a percentage of gross restaurant sales and gross retail sales.¹⁴ Since its formation, GRB has engaged in no other revenue-generating business aside from the Caesars Agreement and the corresponding BURGR Gordon Ramsay restaurant in Planet Hollywood.¹⁵ According to Seibel, Ramsay and Caesars have colluded to oust Seibel from GRB and, as a part of this scheme, GRUS has prevented GRB from entering into any other revenue-generating business.¹⁶

Caesars's businesses are subject to "privileged licenses," including those issued by the Nevada Gaming Commission.¹⁷ Due to certain requirements associated with these licenses, Caesars conditioned the rights and obligations of each party under the Caesars Agreement upon Caesars's satisfaction that GRB and its members, managers and affiliates are not (and do not become) "Unsuitable

¹⁴ *Id.* at § 8.1.

¹⁵ Answer ¶ 24 ("Seibel avers that the GRUS, through its controller, Ramsay, prevented the Company from engaging in any other business as part of a concerted effort to oust Seibel from the Company and to self-interestedly secure the value of the Company and its assets for the sole benefit of Ramsay."). *See also id.* at ¶¶ 7, 25.

¹⁶ Answer ¶ 24. In addition to this discord at GRB, Seibel, Ramsay and GRUS have been involved in litigation in New York over another restaurant venture since 2014. *See* Rogers Transmittal Aff. Ex. 2–6 (the operative pleadings in the New York action). The pleadings filed in New York are adjudicative facts of which I take judicial notice for purposes of this motion. *See Permenter v. JP Morgan Chase Bank Nat'l Assoc.*, 2015 WL 8528325, at *1 n.1 (Del. Ch. Dec. 8, 2015).

¹⁷ Caesars Agreement, at § 11.2. *See* NEV. REV. STAT. §§ 463.225, 463.310, 463.360; NEV. GAMING COMM'N REG. 5.045(1), 5.045(6)(a).

Person[s].”¹⁸ As defined in the Caesars Agreement, “Unsuitable Person” includes any person “whose affiliation with [Caesars] or its [a]ffiliates could be anticipated to result in a disciplinary action relating to, or the loss of, inability to reinstate or failure to obtain” the gaming and alcohol licenses held by Caesars or “who is or might be engaged or about to be engaged in any activity which could adversely impact the business or reputation of [Caesars] or its [a]ffiliates.”¹⁹ The Caesars Agreement further provides that Caesars may make the determination that any person associated with GRB, its members, managers and affiliates is an “Unsuitable Person” in its “sole and exclusive judgment.”²⁰ Upon a determination of unsuitability,

(a) Gordon Ramsay and/or GRB shall terminate any relationship with the [p]erson who is the source of such issue, (b) Gordon Ramsay and/or GRB shall cease the activity or relationship creating the issue to [Caesars’s] satisfaction, in [Caesars’s] sole judgment, or (c) if such activity or relationship is not subject to cure as set forth in the foregoing clauses (a) and (b), as determined by [Caesars] in its sole discretion, [Caesars] shall, without prejudice to any other rights or remedies of [Caesars] including at law or in equity, have the right to terminate [the Caesars Agreement] and its relationship with Gordon Ramsay and GRB.²¹

¹⁸ Caesars Agreement, at § 2.2.

¹⁹ *Id.* at § 1.

²⁰ *Id.* at § 11.2.

²¹ *Id.*

B. Seibel is Convicted of Impeding the Administration of the Internal Revenue Code, Causing Caesars to Terminate the Caesars Agreement

As noted, Seibel pled guilty on April 18, 2016, to a one-count felony criminal information charging him with impeding the administration of the Internal Revenue Code (26 U.S.C. § 7212) after employing an undeclared Swiss bank account and Panamanian shell company to hide taxable income.²² He was sentenced on August 19, 2016, to one month of imprisonment, six months of home detention and 300 hours of community service in addition to restitution.²³

Following the sentencing, on September 2, 2016, Caesars sent a letter to GRB, Seibel and Ramsay stating that Seibel's felony conviction rendered him an "Unsuitable Person," and demanding, therefore, that "GRB, [] within 10 business days of the receipt of this letter, terminate any relationship with Mr. Seibel and provide Caesars with written evidence of such terminated relationship."²⁴ The letter went on to state that "[i]f GRB fails to terminate the relationship with Mr. Seibel,

²² Answer ¶ 10; Rogers Transmittal Aff. Ex. 7, at 15:12–17:19.

²³ Answer ¶ 10; Rogers Transmittal Aff. Ex. 7, at 22:8–21.

²⁴ Pet. Ex. 3 (stating that "Caesars is aware that Rowen Seibel, who is a GR Associate under the [Caesars] Agreement, has recently pleaded guilty to a one-count criminal information charging him with impeding the administration of the Internal Revenue Code (26 U.S.C. § 7212) (corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws), a Class E Felony. Such felony conviction renders Rowen Seibel an Unsuitable Person.").

Caesars will be required to terminate the [Caesars] Agreement pursuant to Section 4.2.5 of the [Caesars] Agreement.”²⁵

Following receipt of the September 2 letter from Caesars, on September 6, 2016, GRUS sent a letter to Seibel’s attorney requesting that Seibel “terminate *any* relationship” with GRB and “sign all necessary documents to confirm such termination.”²⁶ In response, Seibel proposed to transfer his interest in GRB to a family trust. Caesars, however, rejected the proposal on September 12, 2016, after it “determined that because the proposed assignees have direct and/or indirect relationships with Mr. Seibel, the proposed assignees are Unsuitable Persons,” as defined in the Caesars Agreement.²⁷ In a letter dated September 12, 2016, GRUS renewed its demand that Seibel completely disassociate from GRB and “fully comply with Caesars’ requirements within their timeline.”²⁸ Seibel did not do so.²⁹

²⁵ *Id.* Ramsay’s attorney also sent Seibel’s attorney a letter dated September 2, 2016, stating that he was aware of Seibel’s felony conviction and that he expected to receive a notice from Caesars regarding Seibel’s unsuitability under the Caesars Agreement, and seeking full disclosure of relevant facts relating to the conviction. Pet. Ex. 4.

²⁶ Pet. Ex. 5 (emphasis in original).

²⁷ Pet. Ex. 9. Seibel had first proposed to transfer his membership interest in GRB to his family trust on or about April 11, 2016. Answer ¶ 18. *See also* Pet. Ex. 6.

²⁸ Pet. Ex. 7.

²⁹ *See* Pet. Ex. 3–10; Verified Countercls. of Resp’t Rowen Seibel Against Pet’r GR US Licensing, LP (“Countercl.”) Ex. 1–5 (correspondence between the parties, reflecting no response from Seibel to GRUS’s September 12, 2016 letter).

By letter dated September 21, 2016, Caesars terminated the Caesars Agreement because “[a]s of 11:59 p.m. on September 20, 2016, Caesars had not received any evidence that GRB had disassociated with Rowen Seibel, an individual who is an Unsuitable Person, pursuant to the [Caesars] Agreement.”³⁰ Based on the termination of the Caesars Agreement, GRUS sent GRB notice of its termination of the License Agreement on September 22, 2016.³¹

C. Procedural Posture

GRUS filed its Petition on October 13, 2016, seeking the judicial dissolution and winding up of GRB pursuant to the terms of the LLC Agreement and Section 18-802. On November 23, 2016, Seibel filed his Answer and Verified Counterclaims of Respondent Rowen Seibel Against Petitioner GR US Licensing, LP (the “Counterclaims”) in which he asserts: (1) breach of the License Agreement, brought derivatively on behalf of GRB against GRUS; (2) misappropriation and unjust enrichment, brought derivatively on behalf of GRB against GRUS; (3) breach of fiduciary duty, brought directly by Seibel against GRUS; and (4) breach of fiduciary duty, brought derivatively on behalf of GRB against GRUS. These

³⁰ Pet. Ex. 10. Seibel asserts that this purported termination is invalid, *inter alia*, “in that the Caesars Agreement was purported to be terminated by an entity that had assigned all its interests in that Agreement.” Answer ¶ 22. This issue is currently before a Nevada court, and has not been joined here.

³¹ Countercl. Ex. 5.

Counterclaims largely center on Seibel's allegations that Ramsay, through GRUS, has sought to usurp corporate opportunities from GRB and Seibel, primarily via a collusive plot with Caesars to terminate the Caesars Agreement based on the "fiction" that Seibel's conviction renders him an "Unsuitable Person."³²

On December 13, 2016, GRUS moved for judgment on the pleadings on its Petition (the "Motion"). At the same time, GRUS moved to dismiss, or in the alternative, stay or sever Seibel's Counterclaims. In a telephonic scheduling conference on January 3, 2017, the Court ruled that it would decide GRUS's Motion on the dissolution claims before addressing GRUS's motion to dismiss the Counterclaims. The Court also entered an order staying discovery.

On January 17, 2017, GRUS moved to expedite the proceeding with respect to the motion *sub judice* due to the filing of derivative claims by Seibel on behalf of GRB in Nevada (the "Nevada Action") in which Seibel, *inter alia*, challenges the termination of the Caesars Agreement and seeks specific performance of that agreement. The motion to expedite was denied in a telephonic hearing on January 23, 2017. Thereafter, Seibel moved for a preliminary injunction in Nevada to prevent Caesars from taking any action in furtherance of its decision to terminate the Caesars Agreement. That motion was denied without prejudice on March 22,

³² See Countercl. ¶¶ 1–6 (describing the nature of the Counterclaims).

2017.³³ The Nevada court granted a partial motion to dismiss Seibel's claims without prejudice on May 17, 2017,³⁴ and Seibel filed an amended complaint in that action shortly after.³⁵ On June 20, 2017, the parties supplemented the record in connection with the motion *sub judice*, at the Court's request, by submitting orders and transcripts of certain court rulings in the Nevada litigation.

II. ANALYSIS

GRUS's motion for judgment on the pleadings requires the Court to determine whether the uncontested facts as admitted by Seibel in his Answer entitle GRUS to judicial dissolution of GRB as a matter of law. For the reasons that follow, I find that the deadlock between the parties, as evidenced by the undisputed facts, has rendered it no longer reasonably practicable for GRB to operate in accordance with its LLC Agreement. I also find no basis in equity to deny dissolution. I explain these findings below after addressing the standard of review.

³³ Ltr. from Paul D. Brown to Vice Chancellor Joseph R. Slight III in resp. to his ltr. dated June 19, 2017 regarding the Nevada action ("Supplemental Ltr.") (DI 37) Ex. A, B.

³⁴ *Id.* at Ex. C, D.

³⁵ Resp. Rowen Seibel's Ltr. to Vice Chancellor Joseph R. Slight III Regarding Filing of Am. Compl. in Nevada State Ct. Action (DI 38).

A. Standard of Review for Judgment on the Pleadings

Under Court of Chancery Rule 12(c), the Court may grant a motion for judgment on the pleadings if, when viewing the claims in the light most favorable to the nonmoving party, there are no material issues of fact and the movant is entitled to judgment as a matter of law.³⁶ As the Motion was brought by Petitioner, facts admitted in the Answer are deemed true.³⁷

B. Judicial Dissolution of an LLC Pursuant to 6 Del. C. § 18-802

GRB's LLC Agreement allows for dissolution of the Company pursuant to a judicial decree of dissolution under Section 18-802 which, in turn, provides that "[o]n application by or for a member or manager the Court of Chancery may decree dissolution of a limited liability company whenever it is not reasonably practicable to carry on the business in conformity with a limited liability company agreement."³⁸

³⁶ *Desert Equities, Inc. v. Morgan Stanley Leveraged Equity Fund, II, L.P.*, 624 A.2d 1199, 1205 (Del. 1993). Seibel contends that the present Motion is premature because GRUS filed a motion to dismiss the Counterclaims, leaving them unanswered. I note first that Seibel did not raise (or even preview) this argument during the teleconference on January 3, 2017, where I addressed GRUS's application to proceed with the motion for judgment on the pleadings in summary fashion before turning to the Counterclaims. But more importantly, the relevant pleadings—*i.e.*, those relating to GRUS's dissolution claims—are closed, making it appropriate to rule on the Motion. *Cf. Vale v. Atlantic Coast & Inland Corp.*, 99 A.2d 396, 397–400 (Del. Ch. 1953) (holding that a motion for judgment on the pleadings was premature because the pleadings were not closed where the defendant had moved to strike the complaint rather than answer it, a motion which the court subsequently treated as a motion to dismiss).

³⁷ *Warner Commc'ns Inc. v. Chris-Craft Indus., Inc.*, 583 A.2d 962, 965 (Del. Ch. 1989).

³⁸ 6 Del. C. § 18-802.

The “not reasonably practicable” standard does not require a petitioner to “show that the purpose of the limited liability company has been ‘completely frustrated.’”³⁹ Rather, “[t]he standard is whether it is reasonably practicable for [the company] to continue to operate its business in conformity with its LLC Agreement.”⁴⁰ Our law provides no blueprint for determining whether it is “not reasonably practicable” for an LLC to continue, but “several convincing factual circumstances have pervaded the case law: (1) the members’ vote is deadlocked at the Board level; (2) the operating agreement gives no means of navigating around the deadlock; and (3) due to the financial condition of the company, there is effectively no business to operate.”⁴¹ None of these factors are “individually dispositive; nor must they all exist for a court to find it no longer reasonably practicable for a business to continue operating.”⁴² While judicial dissolution of an LLC is a “discretionary remedy” that is “granted sparingly,” “it has been granted ‘in situations where there was ‘deadlock’

³⁹ *Fisk Ventures, LLC v. Segal*, 2009 WL 73957, at *4 (Del Ch. Jan. 13), *aff’d*, 984 A.2d 124 (Del. 2009). See also *PC Tower Ctr., Inc. v. Tower Ctr. Dev. Assocs. Ltd. P’ship*, 1989 WL 63901, at *6 (Del. Ch. June 8, 1989) (noting that the “not reasonably practicable” standard “is one of reasonable practicality, not impossibility”).

⁴⁰ *Fisk*, 2009 WL 73957, at *4.

⁴¹ *Id.*

⁴² *Id.*

that prevented the [entity] from operating and where the defined purpose of the entity was . . . impossible to carry out.”⁴³

In setting up his argument that dissolution should not be ordered in this case, Seibel relies on this court’s opinion in *In re Arrow Investment Advisors, LLC*,⁴⁴ and argues that “[i]n applying only the undisputed facts to the law, the Court should also bear in mind that dissolution is an ‘extreme’ remedy of ‘last resort’ and that the Court’s statutory power to order dissolution is ‘limited.’”⁴⁵ In doing so, he has only partially set the table because, while he quotes *Arrow Investment* correctly, he has not quoted it completely. After discussing the “limited” nature of the court’s power to dissolve a Delaware entity, the court went on to explain the impact of management dysfunction and deadlock on the dissolution analysis:

The court will not dissolve an LLC merely because the LLC has not experienced a smooth glide to profitability or because events have not turned out exactly as the LLC’s owners originally envisioned; such events are, of course, common in the risk-laden process of birthing new entities in the hope that they will become mature, profitable ventures. In part because a hair-trigger dissolution standard would ignore this market reality and thwart the expectations of reasonable investors that entities will not be judicially terminated simply because of some market turbulence, *dissolution is reserved for situations in which the LLC’s management has become so dysfunctional or its business purpose so*

⁴³ *Meyer Natural Foods LLC v. Duff*, 2015 WL 3746283, at *3 (Del. Ch. June 4, 2014) (quoting *In re Seneca Invs. LLC*, 970 A.2d 259, 262–63 (Del. Ch. 2008)).

⁴⁴ 2009 WL 1101682 (Del. Ch. Apr. 23, 2009).

⁴⁵ Resp’t’s Answering Br. in Opp’n to Mot. for J. on the Pleadings (“Resp’t’s Answering Br.”) 17 (quoting *Arrow Inv. Advisors*, 2009 WL 1101682, at *2, 5).

*thwarted that it is no longer practicable to operate the business, such as in the case of a voting deadlock or where the defined purpose of the entity has become impossible to fulfill.*⁴⁶

As discussed below, Seibel has failed to account for the fact that he and Ramsay no longer speak and no longer make decisions for GRB. This dysfunction and voting deadlock has left the Company in a petrified state with no means in the LLC Agreement to break free.

Seibel also argues that equity should step in to prevent the dissolution of GRB even if the Court finds that it is “not reasonably practicable” for the Company to carry on its business in conformity with the LLC Agreement because “where one LLC member pursues dissolution to usurp a business opportunity or where he seeks to disenfranchise other LLC members for his personal and sole benefit, the requested dissolution should be denied.”⁴⁷ Seibel’s appeal to equity to prevent a dissolution of GRB rings hollow, however, because the circumstance that has created the deadlock and the resulting need for dissolution is of his own making.

C. Insurmountable Deadlock at GRB Justifies Judicial Dissolution

GRUS’s “primary legal argument supporting [its] request for judicial dissolution of GRB . . . is that the two 50% owners of GRB—GRUS and Seibel—

⁴⁶ *Arrow Inv. Advisors*, 2009 WL 1101682, at *2 (emphasis added).

⁴⁷ Resp’t’s Answering Br. 19 (citing *Xpress Mgmt. v. Hot Wings Int’l, Inc.*, 2007 WL 1660741, at *6 (Del. Ch. May 30, 2007)).

are deadlocked as to the management of the Company and the Company's LLC Agreement provides no means for resolving that deadlock."⁴⁸ In the context of judicial dissolution, "[d]eadlock refers to the inability to make decisions and take action, such as when an LLC agreement requires an unattainable voting threshold."⁴⁹

Where there are two 50% owners of a company, an unbreakable deadlock can form a basis for dissolution even if the company is still engaged in marginal operations.⁵⁰ In this regard, the decision in *Haley v. Talcott*⁵¹ is instructive. There, on a motion for summary judgment, the court ordered judicial dissolution of a LLC pursuant to Section 18-802 upon concluding that there was "deadlock between the parties about the business strategy and future of the LLC"⁵² with no reasonable exit mechanism, rendering the LLC unable to "function[] as provided for in the LLC Agreement."⁵³ The company's only asset was a piece of real estate leased to a restaurant, and the parties could not agree about what to do with that land—one

⁴⁸ Pet'r's Reply Br. in Supp. of its Mot. for J. on the Pleadings ("Pet'r's Reply Br.") 5.

⁴⁹ *Meyer*, 2015 WL 3746283, at *3.

⁵⁰ See *Phillips v. Hove*, 2011 WL 4404034 (Del. Ch. Sept. 22, 2011); *Vila v. BVWebTies LLC*, 2010 WL 3866098 (Del. Ch. Oct. 1, 2010); *Haley v. Talcott*, 864 A.2d 86 (Del. Ch. 2004).

⁵¹ 864 A.2d 86 (Del. Ch. 2004).

⁵² *Id.* at 95

⁵³ *Id.* at 89.

wanted to continue the lease with the restaurant and the other wanted to end the lease and sell the property.⁵⁴ The two members had not interacted since a falling out and were engaged in other litigation relating to the LLC.⁵⁵

In analyzing the dispute, the court drew parallels between Section 18-802 and 8 *Del. C.* § 273 (“Section 273”), which governs the dissolution of joint venture corporations with two 50% owners.⁵⁶ Section 273 “sets forth three pre-requisites for a judicial order of dissolution: 1) the corporation must have two 50% stockholders, 2) those stockholders must be engaged in a joint venture, and 3) they must be unable to agree upon whether to discontinue the business or how to dispose of its assets.”⁵⁷ The court found, by analogy, that all three of these pre-requisites were met where

⁵⁴ *Id.* at 95.

⁵⁵ *Id.* at 96.

⁵⁶ *Id.* at 93–96. The court has, on other occasions, analogized the judicial dissolution of an LLC with two 50% owners under Section 18-802 to the 50/50 deadlock scenario addressed by Section 273, noting that “[t]he reason that the § 273 analysis is useful in the LLC context is obvious: when an LLC agreement requires that there be agreement between two managers for business decisions to be made, those two managers are deadlocked over serious issues, and the LLC agreement provides no alternative basis for resolving the deadlock, it is not ‘reasonably practicable’ to continue to carry on the LLC business ‘in conformity with [its] limited liability company agreement.’” *Vila*, 2010 WL 3866098, at *7 (quoting 6 *Del. C.* § 18-802) (emphasis in original). *See also id.* at *8 (ordering dissolution after a trial where the two 50% owners were deadlocked, noting that “a deadlock would not necessarily justify a dissolution if the LLC Agreement provided a means to resolve it equitably” but the LLC agreement did not contain means to break a deadlock and, instead, provided that the members could seek judicial dissolution).

⁵⁷ *Haley*, 864 A.2d at 94 (citing *In re Coffee Assocs., Inc.*, 1993 WL 512505, at *3 (Del. Ch. Dec. 3, 1993)).

the parties were 50% members of the LLC, the parties intended to be and were engaged in a joint venture and the parties were at an impasse regarding how best to manage the LLC's lone asset.⁵⁸ In so holding, the court noted that while the business was "technically functioning, this operation is purely a residual inertial status quo," and further noted that it was "not credible that the LLC could, if necessary, take any important action that required a vote of the members."⁵⁹ Therefore, after determining that the exit provision in the LLC agreement was not an adequate remedy in lieu of judicial dissolution, the court granted dissolution pursuant to Section 18-802 because it was "not reasonably practicable for the LLC to continue to carry on business in conformity with the LLC Agreement."⁶⁰

Here, GRUS and Seibel are both 50% owners of GRB,⁶¹ each is entitled to appoint one manager,⁶² all decisions of the managers must be unanimous besides those relating to the License Agreement,⁶³ and the LLC Agreement does not provide

⁵⁸ *Id.* at 94–95.

⁵⁹ *Id.* at 95. Specifically, the court found that "[w]ith strident disagreement between the parties regarding the appropriate deployment of the asset of the LLC, and open hostility as evidenced by the related suit in this matter, it is not credible that the LLC could, if necessary, take any important action that required a vote of the members." *Id.*

⁶⁰ *Id.* at 98.

⁶¹ LLC Agreement, at § 7.2.

⁶² *Id.* at § 8.1.

⁶³ *Id.* at §§ 8.1, 8.11. Seibel argues that the LLC Agreement gives him "exclusive authority" to make decisions "with respect to the License Agreement." Resp't's Answering

any mechanism to break a voting deadlock. The undisputed facts reveal that the relationship between GRUS and Seibel is, at best, acrimonious, as evidenced by the Counterclaims here, the Nevada Action and the litigation proceedings in New York stemming back to 2014.⁶⁴ While the working relationship between the parties arguably had broken down prior to Seibel's felony conviction in 2016, the facts as admitted in the pleadings show clearly that whatever deadlock may have arisen prior to Seibel's conviction solidified to igneous rock thereafter.

Seibel was convicted and sentenced for impeding the administration of the Internal Revenue Code. Then, Caesars declared Seibel an "Unsuitable Person" and ordered GRB and GRUS to disassociate from him. When GRUS sought to comply with Caesars's direction by having Seibel voluntarily separate from GRB, Seibel refused. When Seibel proposed, as a compromise, that he would transfer his interest

Br. 32 (quoting LLC Agreement, at § 8.11). His argument follows that "[d]eadlock most decidedly cannot exist where the LLC Agreement grants one managing member exclusive authority." *Id.* (citing *Meyer*, 2015 WL 3746283, at *4). GRUS disputes Seibel's interpretation of the LLC Agreement and whether it gives him all the power over the License Agreement that Seibel claims it does. Pet'r's Reply Br. 9–10. It is unnecessary to resolve this dispute, however, because regardless of whether Seibel has the authority to make decisions regarding the License Agreement alone, there are myriad other decisions that would need to be made in running the business that would require unanimity and, as discussed below, "it is not credible that [GRB] could, if necessary, take any important action that required a vote of the members." *Haley*, 864 A.2d at 96.

⁶⁴ The New York proceedings center around another joint restaurant venture between Seibel and Ramsay in Los Angeles called Fat Cow. *See* Rogers Transmittal Aff. Ex. 2–6. There, both Seibel and Ramsay allege breach of contract and fiduciary duty on the part of the other, and Ramsay additionally alleges that Seibel has engaged in fraud. *Id.*

in GRB to a family trust, GRUS and Caesars both indicated that this was inadequate to cure the “Unsuitable Person” problem. When Caesars learned that Seibel remained at GRB after its disassociation deadline passed, it terminated the Caesars Agreement. It is difficult to imagine how GRB could be any more dysfunctional or deadlocked.⁶⁵

Given these undisputed facts, the notion that the deadlock might somehow be broken in the future is simply not reasonably conceivable. Ramsay, and his entity GRUS, no longer want to be associated with Seibel due to his felony tax-related conviction and the reputational damage that will flow from their continued connection with him. This circumstance will not change as future events unfold. It also distinguishes this case from the legion Delaware authority cited by Seibel to the effect that a party cannot seek dissolution simply to extricate himself from what he considers to a “bad deal.”⁶⁶ Here, GRUS and Seibel elected to do business together in the form of GRB, each presuming that the other was an honorable actor. This

⁶⁵ See *Haley*, 864 A.2d at 96 (finding deadlock where there was “strident” disagreement over how to manage the asset of the LLC and open hostility between two 50% members of an LLC).

⁶⁶ See, e.g., *Lola Cars Int’l Ltd. v. Krohn Racing, LLC*, 2010 WL 3314484, at *24 (Del. Ch. Aug. 2, 2010) (citing cases and holding that dissolution was not warranted where the petitioner’s “frustration amounts to little more than disappointment with how [the company] is structured and managed” because “[u]nfortunately for [the petitioner], it agreed to this arrangement,” and “emphasizing that a party to a limited liability company agreement may not seek judicial dissolution simply as a means of freeing itself from what it considers a bad deal”).

presumption was shattered when Seibel was convicted of a felony, especially one involving dishonesty. Tax fraud is not a Las Vegas moment.⁶⁷ It should come as no surprise to Seibel that his conduct leading to that conviction will have consequences (here, as relates to GRB) that extend beyond his conviction and sentencing. This is especially so given that GRB's only revenue-generating business was in a casino, an enterprise that GRUS, Seibel and GRB knew was highly regulated.⁶⁸

Whether right or wrong, Caesars has determined in its "sole judgment" that Seibel is an "Unsuitable Person," a consequence from GRUS and GRB's perspective that is entirely of Seibel's own doing. GRUS finds itself in a lifeless joint venture that does not resemble the one it bargained for.⁶⁹ The undisputed facts reveal that the parties will remain deadlocked without a mechanism in the LLC Agreement to

⁶⁷ "What happens in Vegas stays in Vegas" (The Las Vegas Convention and Visitors Authority 2003).

⁶⁸ See Caesars Agreement, at § 11.2.

⁶⁹ In attempting to dissolve GRB, GRUS (and Ramsay) are not simply trying to walk away from a "bad deal"; they are attempting to disassociate from a person who has engaged in post-formation conduct that could bring them reputational and other harm. Trust between the joint venturers is shattered; they cannot agree on anything; and it is time for them to separate.

break through.⁷⁰ It is, therefore, “not reasonably practicable” for GRUS and Seibel to carry on GRB “in conformity with [the] limited liability company agreement.”⁷¹

⁷⁰ The facts relating to the parties’ hopeless deadlock following Seibel’s felony conviction are undisputed and admitted by Seibel in his Answer. Answer ¶¶ 10, 16–22. There is, therefore, no need for discovery relating to these facts and, of course, no need for a trial to resolve material factual disputes.

⁷¹ 6 *Del. C.* § 18-802. *See Fisk*, 2009 WL 73957, at *4 (holding that dissolution under Section 18-802 was warranted on petitioner’s motion for judgment on the pleadings where “deadlock prevents the limited liability company from operating or furthering its stated business purpose, [meaning that] it is not reasonably practicable for the company to carry on its business”). While I have found that the undisputed deadlock present at GRB justifies judicial dissolution of GRB as a matter of law, I note that GRUS also argues that dissolution is appropriate because the business is unable to continue. According to GRUS, GRB has ceased to do business because the only revenue-generating business it had, the Caesars Agreement, was terminated by Caesars. *See* Pet’r’s Opening Br. 24. Seibel cites to several open issues that he argues preclude a judgment on the pleadings on this ground, including his allegation that the BURGR Restaurant in Planet Hollywood “continues to operate, under a virtually identical concept, with virtually identical menus and look, and thereby generates significant profit utilizing GRB’s intellectual property, but without remitting any license fees or other profits to GRB,” and that, under the Caesars Agreement, GRB should have the right to license fees from that new restaurant. Resp’t’s Answering Br. 29–30 (citing to the Counterclaims). Claims also remain in the Nevada Action for breach of the Caesars Agreement, including a prayer for specific performance of that contract. *See* Supplemental Ltr. Ex. A–D. I agree with Seibel that questions of fact remain regarding whether GRB might be able to engage in some form of business in the future that preclude a ruling at this stage that dissolution is appropriate because GRB is no longer in business. This, of course, does not preclude a judgment of dissolution on the alternative ground that it is no longer reasonably practicable to carry on the business of GRB given the intractable deadlock of its members. *See Haley*, 864 A.3d at 96 (holding that irreconcilable deadlock between two 50/50 members of an LLC was sufficient to warrant dissolution pursuant to Section 18-802 even where the LLC had remaining residual business operations).

D. Equitable Principles do not Override the fact that Judicial Dissolution is Warranted

Seibel argues that even if GRUS has satisfied the “not reasonably practicable” standard for dissolution, the Court should decline to order dissolution at this pleadings stage as a matter of equity. He correctly points out that Section 18-802 provides that the court “may” grant dissolution where it is no longer reasonably practicable for the company to continue to operate in accordance with its operating agreement; the General Assembly appears deliberately to have chosen not to mandate that result.⁷² According to Seibel, the Court should invoke equity to deny the Petition because the dissolution is “being exploited tactically for an ulterior and inequitable purpose . . . [because GRUS is] pursu[ing] dissolution to usurp a business opportunity . . . [and] seeks to disenfranchise [the] other LLC member[] for [Ramsay’s] personal and sole benefit.”⁷³ Specifically, Seibel alleges that:

Ramsay’s currently undisputed plan, which includes dissolution of GRB, is expressly designed to usurp GRB’s entire BURGR Restaurant business by interfering with GRB’s ability to pursue its business purpose. . . . Ramsay and Petitioner refused to consider additional corporate opportunities for GRB, or to meet with Seibel to discuss the potential opportunities, beginning in 2013. Ramsay then attempted to

⁷² See 6 Del. C. § 18-802. See also *In re Mobilactive Media, LLC*, 2013 WL 297950, at *33 (Del. Ch. Jan. 25, 2013) (“Yet, even in cases where the standard for dissolution has been met, the Court of Chancery, in the exercise of its equitable powers, *may* decide whether it should issue a decree of dissolution.”); *Lola Cars*, 2010 WL 3314484, at *22 (“[A]s the statute makes clear, even if the standard of ‘not reasonably practicable’ is met, the decision to enter a decree of dissolution nonetheless rests with the discretion of the Court.”).

⁷³ Resp’t’s Answering Br. 19 (citing *Xpress Mgmt.*, 2007 WL 1660741, at *6).

solidify his ability to continue the burger restaurant concept for himself by attempting to register the ‘BURGR’ trademark in one of his other entities, despite the LLC Agreement and the License Agreement Petitioner signed acknowledging that the BURGR name was owned by GRB. Then, on April 7, 2016, Ramsay instructed [Caesars] to remit monies due under the [Caesars Agreement] directly to Petitioner, as opposed to the GRB, in contravention of the [Caesars Agreement] and the LLC Agreement.

Ramsay then colluded with [Caesars] to terminate the [Caesars Agreement], which then permitted Ramsay to terminate the License Agreement, thereby depriving GRB of two of its three principal assets: the [Caesars Agreement] under which the BURGR Restaurant operated in the Planet Hollywood hotel, and the License Agreement under which the BURGR Restaurant was marketed under the Gordon Ramsay name. Viewed in the light most favorable to Seibel, and prior to any discovery, the pleadings establish that Ramsay and [Caesars] decided to enable Ramsay to obtain the full profits of the BURGR Restaurant by contriving an unsubstantiated finding that Seibel was an ‘unsuitable’ person. Ramsay and [Caesars] then rejected all efforts by Seibel to ameliorate and cure any perceived basis for an unsuitable person finding. And then based upon the contrived unsuitable person determination, the [Caesars Agreement] and, in turn, the License [Agreement] were terminated. GRB was deprived of these valuable assets without remuneration, but without depriving Ramsay or [Caesars] from continuing to market and operate the BURGR Restaurant in the Planet Hollywood hotel—which they have done and which has remained profitable.⁷⁴

Given this history, Seibel maintains that “[e]quity ‘should not stand idle’ . . . where the purpose of the dissolution is to aid the Petitioner in exploiting GRB’s entire

⁷⁴ Resp’t’s Answering Br. 22–23 (citations omitted). Notably, the citations that Seibel provides for these facts all lead to his Counterclaims, not the pleadings relevant to the Petition for dissolution. I will consider these facts, nevertheless, in order to address Seibel’s equitable argument on the merits.

business for itself (or for its principal), and thus dissolution should be denied at this stage of the proceedings.”⁷⁵

Seibel relies primarily upon this court’s decisions in *In re Mobilactive Media, LLC*⁷⁶ and *Xpress Management v. Hot Wings International, Inc.*⁷⁷ as support for the proposition that “equity” should step in to prevent the dissolution of GRB. In *Mobilactive Media*, the court rendered a post-trial decision finding the defendant liable for breach of fiduciary duties. The court then addressed defendant’s petition for dissolution and summarily denied it upon concluding that the defendant was proffering the consequences of its own breach of fiduciary duty (the usurpation of corporate opportunities) as the primary basis for its argument that the business could no longer fulfill its designated purpose.⁷⁸ Specifically, the court held that the defendant “should not be permitted to use its inequitable conduct to extricate itself from what it has long considered to be a bad deal with [plaintiff] and [the company] and simultaneously hinder [plaintiff] from recovering the damages he is due.”⁷⁹ Importantly, the court was concerned that the defendant was seeking to dissolve the

⁷⁵ *Id.* at 24

⁷⁶ 2013 WL 297950 (Del. Ch. Jan. 25, 2013).

⁷⁷ 2007 WL 1660741 (Del. Ch. May 30, 2007).

⁷⁸ *Mobilactive Media*, 2013 WL 297950, at *33.

⁷⁹ *Id.*

entity before the defendant had paid the damages to the entity that the court had just ordered the defendant to pay for breaching his fiduciary duty.⁸⁰ Needless to say, no such concern exists here.

In *Xpress Management*, the court granted a motion to stay a dissolution proceeding brought under 8 *Del. C.* § 273 in favor of prior-filed litigation between the parties.⁸¹ While the court acknowledged that pre-existing litigation between parties generally will not prevent a member of a joint venture from seeking dissolution under Section 273, “when the other party can point to uncontested facts which raise a specter of bad faith conduct by the party seeking dissolution, the Court of Chancery’s inherent equitable discretion should not stand idle.”⁸² In this regard, the court found the uncontested facts—that the petitioner repeatedly sought to break up the subject company via litigation in various other fora for improper and self-interested reasons—raised an inference that the petitioner was seeking to exploit future business opportunities rightfully belonging to the venture it was seeking to dissolve.⁸³ As the court explained, “a court should be wary when section 273 is invoked as a statutory panacea by a purported joint venture who, having failed before

⁸⁰ *Id.*

⁸¹ 2007 WL 1660741, at *7.

⁸² *Id.* at *6.

⁸³ *Id.*

in its effort to break up the company and having eschewed the power of this court for so long, suddenly maintains that a rapid and summary dissolution is the appropriate method through which the corporation's best interests will be served.”⁸⁴

Seibel has pointed to nothing that would suggest that GRUS sought to dissolve or walk away from GRB prior to Seibel's conviction for tax fraud and Caesar's subsequent termination of the Caesar's Agreement. Unlike the petition at issue in *Xpress Management*, the Petition at issue here is not the latest act in a long-playing drama where one member of a joint venture gins up any excuse imaginable to separate from the other. The deadlock here is temporally related to a series of events, caused by Seibel, that have rendered GRB no longer able to function.

A case not cited by Seibel, *In re Data Processing Consultants, Ltd.*,⁸⁵ is especially informative in its discussion of the scope and utility of the court's equitable powers in the dissolution context. There, the court acknowledged that Section 273 allows the court to decline to order dissolution on equitable grounds even when the petitioner satisfies the statutory criteria for dissolution, but only in “narrow” circumstances where the petitioner has engaged in demonstrable “bad faith in the seeking of [] dissolution.”⁸⁶ The court emphasized that “such [equitable]

⁸⁴ *Id.* at *7.

⁸⁵ 1987 WL 25360 (Del. Ch. Nov. 25, 1987) (Allen, C.).

⁸⁶ *Id.* at *4 (providing, as an example, that “this court might deny such a petition upon a showing that one joint-venturing shareholder seeks dissolution at a particular time in order

power should be sparingly exercised.”⁸⁷ Citing *Data Processing*, this court has since illustrated the limited reach of the bad faith exception, ordering dissolution and the appointment of a receiver under Section 273 even in the face of allegations that the petitioner had engaged in past instances of usurpation of corporate opportunities because such instances did not adequately portend “specific future” harm that would justify perpetuating a dysfunctional joint venture.⁸⁸

to free himself to exploit a specific future business opportunity personally that would rightfully belong to the company if it should happen to continue to exist as a going concern at that future time”).

⁸⁷ *Id.* See also *id.* (holding that “while proof of prior breach of fiduciary duty would justify the court’s requiring a fiduciary to account, proof of such a breach would not, standing alone, ordinarily permit the court to require that a 50% shareholder remain in a corporate joint venture against his will”). Indeed, this court has noted that dissolution is often accompanied by various other litigation, including breach of fiduciary duty claims, due to its very nature. See *In re Magnolia Clinical Research, Inc.*, 2000 WL 128850, at *2 (Del. Ch. Jan. 3, 2000) (“Section 273 exists to enable deadlocked shareholders to bring closure to what has become an inefficient and unworkable relationship. As dissolution will not generally be sought if all is well with a joint venture, it follows oft-times that the relationship will be rather strained when a shareholder seeks dissolution under § 273. There may well be related litigation—often involving allegations of breach of fiduciary duty—contemporaneous to a § 273 proceeding. It makes little sense to deny dissolution pending resolution of these other actions unless, for instance, special circumstances such as those mentioned in *Data Processing* are involved.”).

⁸⁸ See *Magnolia Clinical Research*, 2000 WL 128850, at *1 (“Respondent also fails to allege sufficiently an attempt by petitioner to exploit personally ‘specific future’ business opportunities. She does allege that petitioner ‘commenced a competing business and began to divert business of [the company] to such competing business,’ and ‘hired and attempted to hire [the company’s] consultants.’ These allegations, even if taken as true, do not, in my opinion, constitute the ‘specific future’ harm mentioned by the *Data Processing* court. Furthermore, these allegations, which are similarly asserted in the federal action [brought by the respondent asserting breach of fiduciary duties and tortious interference with

Here, Seibel has failed to point to any “specific future” business opportunity that GRUS or Ramsay are seeking to exploit or any specific harm that will arise from the dissolution. This is unsurprising since Seibel has admitted that the only revenue-generating business that GRB has ever engaged in—the Caesars Agreement—was initiated in late 2012 when the Company was founded. Beyond referencing an opportunity that has now been terminated by the other party, Seibel has not identified any “specific future business opportunity”⁸⁹ that rightfully belongs to GRB that GRUS is attempting to take for itself through the use of this dissolution proceeding. It is not enough for Seibel merely to state that Ramsay may, at some point in the future, engage in some other burger venture that uses his name and likeness to capitalize on the celebrity and status Ramsay has spent his career building. Seibel cannot reasonably expect that this court would indefinitely lock Ramsay in a failed joint venture and thereby preclude him from ever engaging in a business that bears resemblance to GRB—a restaurant business that exploits Ramsay’s celebrity to sell one of the most popular and beloved food preparations in all of history. Any such result would be the antithesis of equitable.

contract] can be addressed adequately by the federal court, without interfering with the dissolution action in this Court.”).

⁸⁹ *Data Processing*, 1987 WL 25360, at *4.

Even if GRUS, Ramsay and Caesars have engaged in a scheme to usurp corporate opportunities from GRB and Seibel, as Seibel alleges, the scheme has already run its course—Caesars has terminated the Caesars Agreement and GRUS has terminated the License Agreement. Claims relating to these alleged harms can be prosecuted either individually by Seibel or derivatively by a receiver on behalf of GRB as appropriate.⁹⁰ Given that this court will allow a dissolution to proceed even when there are first-filed derivative claims pending, there is no principled basis upon which to conclude that *later-filed* derivative claims alleging past harms should stand in the way of an otherwise properly supported petition for dissolution. Unlike in *Mobilactive*, Seibel has not alleged any facts that would allow a reasonable inference that he would not be able to recover fully any damages he is owed if dissolution is granted. Therefore, because Seibel has failed to allege bad faith in the bringing of the dissolution, but rather points only to prior bad acts that predate the Petition and were allegedly undertaken separate and apart from the Petition, equity will not preclude the entry of an otherwise justified decree of dissolution.

⁹⁰ See *In re Silver Leaf, L.L.C.*, 2005 WL 2045641, at *11 (Del. Ch. Aug. 18, 2005) (noting that what remained of the subject business was “possible choses in action” and that “[t]he ability to prosecute those claims does not depend on the continued existence of the LLC, but could, at least in theory, be managed by a court appointed receiver”); *Magnolia Clinical Research*, 2000 WL 128850, at *2 (after ordering dissolution, noting that “[c]ounsel should try to agree upon a proper receiver who will, of course, assess the claims and counterclaims asserted [derivatively] in the federal action in determining how to proceed with the dissolution”).

III. CONCLUSION

For the foregoing reasons, Petitioner's Motion for Judgment on the Pleadings is GRANTED and judicial dissolution is ordered pursuant to 6 *Del. C.* § 18-802. Petitioner shall submit a form of implementing order, on notice to Respondent, within twenty (20) days. In connection with this order, counsel should endeavor to agree upon a proposed liquidating trustee who will, in addition to those powers granted under 6 *Del. C.* § 18-803(b), assess the Counterclaims pending here and the claims in the Nevada Action in determining whether any action should be taken on behalf of GRB in connection with such claims.

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EXHIBIT 2



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

| | | |
|-----------------------------|---|--------------------|
| In re: GR Burgr, LLC |) | |
| _____ |) | |
| ROWEN SEIBEL, |) | |
| |) | |
| Respondent and Counterclaim |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | C.A. No. 12825-VCS |
| |) | |
| GR US LICENSING, LP , |) | |
| |) | |
| Petitioner and Counterclaim |) | |
| Defendant, |) | |
| |) | |
| and |) | |
| |) | |
| GR BURGR, LLC, |) | |
| |) | |
| Nominal Defendant. |) | |
| _____ |) | |

**ORDER DISSOLVING GR BURGR, LLC AND APPOINTING
LIQUIDATING TRUSTEE**

WHEREAS, on October 13, 2016, GR US Licensing, LP (“GRUS” or “Petitioner”) filed a Verified Petition for Judicial Dissolution of GR Burgr, LLC (the “Petition”), in which Petitioner sought an order of judicial dissolution of GR Burgr, LLC (“GRB”) pursuant to 6 *Del. C.* § 18-802, as well as the appointment of a liquidating trustee for the winding up of GRB pursuant to 6 *Del. C.* § 18-803;

WHEREAS, on November 23, 2016, Rowen Seibel filed an Answer to the Petition, in which he opposed the dissolution of GRB, and Verified Counterclaims Against GRUS on behalf of GRB (the “Delaware Counterclaims”);

WHEREAS, on December 13, 2016, Petitioner moved for judgment on the pleadings on its Petition (the “Motion”), and also moved to dismiss the Delaware Counterclaims and stay the Delaware Counterclaims pending resolution of the Motion;

WHEREAS, on January 3, 2017, the Court ruled that it would decide the Motion before addressing GRUS’s motion to dismiss the Delaware Counterclaims and stayed all other aspects of the case;

WHEREAS, on January 11, 2017, Seibel filed derivative claims on behalf of GRB in Nevada (the “Nevada Claims”); and

WHEREAS, the Court, having considered the merits of the Motion and, for the reasons set forth in its August 25, 2017 memorandum opinion (the “Memorandum Opinion”), and finding good cause for GRB to be dissolved and wound up under the supervision and authority of a liquidating trustee appointed by the Court who shall possess the broadest authority, consistent with the Delaware Limited Liability Company Act (the “Act”) to oversee the dissolution and winding up of GRB.

NOW, THEREFORE, this 5th day of October, 2017, IT IS
HEREBY ORDERED, ADJUDGED and DECREED as follows:

1. The Motion. Having found good cause therefore, the Petitioner's Motion for Judgment on the Pleadings Concerning the Petition is hereby GRANTED.

2. Dissolution and Winding Up. Pursuant to 6 *Del. C.* § 18-802, the Court, having concluded that it is no longer reasonably practicable to carry on the business of GRB, hereby orders that GRB shall be deemed dissolved as of the date of this Order, and GRB's affairs shall be promptly wound up by a liquidating trustee under the direction of this Court and in accordance with the Act and the limited liability company agreement of GRB (the "LLC Agreement").

3. Appointment Of Liquidating Trustee. Pursuant to 6 *Del. C.* § 18-803(a), Kurt Heyman, Esq. is hereby appointed as the liquidating trustee of GRB (the "Liquidating Trustee") with the powers and duties specified in this Order.

4. Acceptance And Term of Appointment Of Liquidating Trustee. The Liquidating Trustee shall file in this Court a written acceptance of the appointment. The Liquidating Trustee shall serve at the pleasure of the Court, and the provisions of this Order shall remain in effect pending further Order of the Court.

5. General Powers Of Liquidating Trustee. The Liquidating Trustee shall have all the powers generally available to a trustee, custodian, or receiver

appointed pursuant to 6 *Del. C.* § 18-803, unless the exercise of any said power would be inconsistent with any specific provision of this Order or any other Order entered by the Court in this action. Upon appointment, the Liquidating Trustee shall have full control and dominion over the dissolution and liquidation of GRB and shall have access to all books and records of GRB.

6. Authority To Act. The Liquidating Trustee is authorized and empowered with the sole and exclusive authority to act through and in the name of GRB as necessary (a) to carry out all duties hereunder; (b) to identify and marshal the assets of GRB and liquidate those assets, including the Delaware Counterclaims (to the extent such claims are derivative) and Nevada Claims, in the manner the Liquidating Trustee determines is in the best interests of GRB; (c) to prosecute and defend any litigation by or on behalf of GRB; (d) to wind up the affairs of GRB in accordance with the terms of the Act and the LLC Agreement; and (e) to execute and/or deliver, or cause to be executed and/or delivered, all assignments, instruments, pleadings, and documents necessary to carry out the Liquidating Trustee's duties as outlined in this Order. The Liquidating Trustee also shall have authority, but shall not be required, to petition this Court for instructions at any time from time to time.

7. Waiver Of Duties. The provisions of Court of Chancery Rules 149-168, which apply to the duties of a receiver and/or liquidating trustee of limited

liability companies, are hereby waived and the Liquidating Trustee shall not be required to post a bond. In lieu of these provisions, the Liquidating Trustee shall provide interim summary reports to the Court every three months following the date of this Order, until the winding up is complete. The Liquidating Trustee will provide these interim reports to the Court via U.S. Mail, with copies to counsel of record for the parties in this action/and the Court will file a copy of each report on the docket upon receipt.

8. Reports To And Consultation With Members. The Liquidating Trustee may, to the extent deemed practical or necessary, consult with the members of GRB (“Members”) and/or their representatives with respect to the Liquidating Trustee’s performance of his various duties under this Order, but shall not be subject to their direction or control, and shall not be required to take any course of action the Members otherwise would or would not take. The Liquidating Trustee may periodically confer with the Members and/or their representatives by teleconference or in person, and, at the Liquidating Trustee’s sole discretion, may meet with the Members and/or their representatives individually or together. At any time, either Member may request assistance or action from the Liquidating Trustee. Such conferences shall occur at such intervals as the Liquidating Trustee deems appropriate, with the agenda for such conferences determined in advance to the extent reasonably possible. The Members, GRB, and their employees and

agents shall cooperate with the Liquidating Trustee and each other to wind up GRB and distribute GRB's assets as required by the LLC Agreement.

9. Presumptions; Good Faith Reliance. All actions taken by the Liquidating Trustee pursuant to this Order in the right of GRB to cause GRB to take action shall be presumed to be taken on an informed basis, in good faith, and in the honest belief that such actions taken were in the best interests of GRB. In causing GRB to take action, the Liquidating Trustee shall be fully protected to the fullest extent permitted by 6 *Del. C.* § 18-406 in relying in good faith upon the records of GRB and upon information, opinions, reports or statements presented by the Members, an officer or employee of GRB, or by any other person as to matters the Liquidating Trustee reasonably believes are within such other person's professional or expert competence, including information, opinions, reports or statements as to contracts, agreements or other undertakings that would be sufficient to pay claims and obligations of GRB or to make reasonable provision to pay such claims and obligations, or any other facts pertinent to the winding up of GRB.

10. Indemnification/Advancement And Exculpation. The appointment of the Liquidating Trustee hereunder shall be binding upon the officers, managers, employees, directors and Members of GRB. The Liquidating Trustee shall have no liability to GRB, its Members, or any other person for acts taken in good faith

pursuant to this Order, and none of the Members, nor any other person purporting to act as a director, manager, officer, employee, advisor or Member of GRB shall institute any legal proceeding other than in this Court challenging any action, recommendation, or decision by the Liquidating Trustee in performing the duties hereunder. The Liquidating Trustee shall be entitled to all protection, limitation from liability, and immunity available at law or in equity to a Court-appointed Liquidating Trustee including, without limitation, all protection, limitation from liability, and immunity provided by the indemnification provisions of applicable law. Expenses, including attorneys' fees, incurred by the Liquidating Trustee in defending any civil, criminal, administrative or investigative action, suit or proceeding arising by reason of or in connection with the Liquidating Trustee's designation as Liquidating Trustee for GRB, or in the performance of the duties hereunder, shall be paid by GRB, in advance of the final disposition of such action, suit or proceeding subject to the repayment of such amount if it shall be ultimately determined by this Court that the Liquidating Trustee is not entitled to be indemnified under applicable Delaware law.

11. Cancellation. Upon completion of the winding up of GRB and the distribution of the proceeds of dissolution pursuant to the LLC Agreement, the Liquidating Trustee shall execute and file a certificate of cancellation in the Office of the Secretary of State of the State of Delaware.

12. Compensation Of The Liquidating Trustee. The Liquidating Trustee shall be compensated by GRB at his usual hourly rate from the assets of GRB **as determined by the Liquidating Trustee.** Reasonable travel and other expenses incurred by the Liquidating Trustee shall be paid directly to the Liquidating Trustee by GRB from the assets of GRB. The Liquidating Trustee shall petition the Court quarterly, or at such other interval as the Court may direct, for approval of fees and expenses. Any fees and expenses approved by the Court shall be paid promptly by GRB from the assets of GRB.

13. Authority To Retain Advisors. If necessary, the Liquidating Trustee may retain counsel or other advisors to advise the Liquidating Trustee with respect to his or her duties under this Order, the Act, and the LLC Agreement. If the Liquidating Trustee is an attorney, the counsel retained by the Liquidating Trustee may be the law firm of which the Liquidating Trustee is a partner. The fees and expenses of any advisors retained by the Liquidating Trustee shall be paid by GRB from the assets of GRB.

14. Reservation of Jurisdiction. The Court reserves jurisdiction over this matter, including jurisdiction to consider any applications that the Liquidating Trustee may make for the Court's assistance in addressing any problems encountered by the Liquidating Trustee in performing his or her duties hereunder

and any applications by any party arising out of or related to any action or decision of the Liquidating Trustee or any of his or her agents.

SO ORDERED this 5th day of October, 2017.

/s/ Joseph R. Slights III

Vice Chancellor

EXHIBIT B

FENNEMORE CRAIG, P.C.
300 East Second Street - Suite 1510
Reno, Nevada 89501
Tel: (775) 788-2200 Fax: (775) 786-1177

1 **DECL**

2 ALLEN J. WILT, ESQ.
3 Nevada State Bar No. 4798
4 JOHN TENNERT, ESQ.
5 Nevada State Bar No. 11728
6 FENNEMORE CRAIG, P.C.
7 300 E. 2nd Street, Suite 1510
8 Reno, Nevada 89501
9 Telephone: (775) 788-2200
10 Facsimile: (775) 786-1177
11 Email: awilt@fclaw.com
12 jtennert@fclaw.com

13 *Attorneys for Defendant Gordon Ramsay*

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 ROWEN SEIBEL, an individual and citizen of
17 New York, derivatively on behalf of Real Party in
18 Interest GR BURGR LLC, a Delaware limited
19 liability company;

20 Plaintiff,

21 vs.

22 PHWLTV, LLC a Nevada limited liability
23 company; GORDON RAMSAY, an individual;
24 DOES I through X; ROE CORPORATIONS I
25 through X,

26 Defendant,

27 GR BURGR LLC, a Delaware limited liability
28 company,

Nominal Defendant.

Case No.: A-17-751759-B
Dept No.: XV

**DECLARATION OF DAVID KERR IN
SUPPORT OF DEFENDANT
GORDON RAMSAY'S OPPOSITION
TO PLAINTIFF'S MOTION FOR
PARTIAL SUMMARY JUDGMENT
CONCERNING (1) THE PAYMENT
OF THE LICENSE FEE THROUGH
MARCH 31, 2017, AND (2) THE
BREACH OF § 14.21 OF THE
DEVELOPMENT AGREEMENT**

29 I, David Kerr, declare and say as follows:

30 1. I am the Finance Director of Kavalake Limited, which is one of three partners of
31 GRUS Licensing, L.P. ("GRUS"), along with Gordon Ramsay and GRUS General Partner, LLC.

32 In that capacity, I have personal knowledge of the matters recited herein.

FENNEMORE CRAIG, P.C.
300 East Second Street - Suite 1510
Reno, Nevada 89501
Tel: (775) 788-2200 Fax: (775) 786-1177

1 2. I make this declaration in support of Gordon Ramsay's Opposition to Plaintiff's
2 Motion for Partial Summary Judgment Concerning (1) the Payment of the License Fee Through
3 March 31, 2017, and (2) the Breach of § 14.21 of the Development Agreement.

4 3. Prior to March 8, 2016, and covering the period through termination of the
5 Development Agreement on September 21, 2016, all payments of the License Fee were made to
6 GR BURGR, LLC and divided equally between Rowen Seibel and GRUS. After March 8, 2016
7 and through termination of the Development Agreement, those payments were made 50% to
8 GRUS and 50% to GR BURGR for benefit of Rowen Seibel.

9 4. GRUS has received no payments of the License Fee for the period following
10 termination of the Development Agreement, except for an erroneous payment in January, 2017,
11 which was immediately returned.

12 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing
13 is true and correct, except as to those matters stated upon information and belief, and as to those
14 matters, I believe them to be true.

15 Dated: 9/29/2017

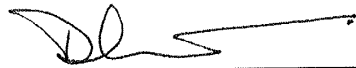
16 
17 _____
18 DAVID KERR

EXHIBIT C

FENNEMORE CRAIG, P.C.
300 East Second Street - Suite 1510
Reno, Nevada 89501
Tel: (775) 788-2200 Fax: (775) 786-1177

1 **DECL**

2 ALLEN J. WILT, ESQ.
3 Nevada State Bar No. 4798
4 JOHN TENNERT, ESQ.
5 Nevada State Bar No. 11728
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12 jtennert@fclaw.com

13 *Attorneys for Defendant Gordon Ramsay*

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 ROWEN SEIBEL, an individual and citizen of
17 New York, derivatively on behalf of Real Party in
18 Interest GR BURGR LLC, a Delaware limited
19 liability company;

20 Plaintiff,

21 vs.

22 PHWLTV, LLC a Nevada limited liability
23 company; GORDON RAMSAY, an individual;
24 DOES I through X; ROE CORPORATIONS I
25 through X,

26 Defendant,

27 GR BURGR LLC, a Delaware limited liability
28 company,

Nominal Defendant.

Case No.: A-17-751759-B
Dept No.: XV

**SECOND DECLARATION OF DAVID
KERR IN SUPPORT OF DEFENDANT
GORDON RAMSAY'S OPPOSITION
TO PLAINTIFF'S MOTION FOR
PARTIAL SUMMARY JUDGMENT
CONCERNING (1) THE PAYMENT
OF THE LICENSE FEE THROUGH
MARCH 31, 2017, AND (2) THE
BREACH OF § 14.21 OF THE
DEVELOPMENT AGREEMENT**

29 I, David Kerr, declare and say as follows:

30 I. I am the Finance Director of Kavalake Limited, which is the indirect parent of RB
31 Restaurant Ventures LLC. In that capacity, I have personal knowledge of the matters recited
32 herein.

FENNEMORE CRAIG, P.C.
300 East Second Street - Suite 1510
Reno, Nevada 89501
Tel: (775) 788-2200 Fax: (775) 786-1177

1 2. I make this second declaration in support of Gordon Ramsay's Opposition to
2 Plaintiff's Motion for Partial Summary Judgment Concerning (1) the Payment of the License Fee
3 Through March 31, 2017, and (2) the Breach of § 14.21 of the Development Agreement.

4 3. The License Agreement that governs the restaurant Gordon Ramsay Burger is
5 between RB Restaurant Ventures, LLC and PHWLV, LLC. That agreement recites generally the
6 same terms and conditions as the development agreement between GR BURGR LLC and
7 PHWLV, LLC.

8 4. RB Restaurant Ventures, LLC is a Nevada LLC, which is indirectly controlled by
9 Gordon Ramsay. Gordon Ramsay owns a majority interest in Kavalake Ltd., which owns 100% of
10 GR US Topco LLC, which owns 100% of RB Restaurant Ventures LLC. Kavalake also owns a
11 controlling majority interest in GR US Licensing LP, which owns 50% of GR BURGR LLC. RB
12 Restaurant Ventures LLC is therefore an affiliate of GR BURGR LLC through the common
13 control of both Gordon Ramsay and Kavalake Ltd.

14 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing
15 is true and correct, except as to those matters stated upon information and belief, and as to those
16 matters, I believe them to be true.

17 Dated: 10/5/2017

18 
19 _____
20 DAVID KERR
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