

**RECORDING REQUESTED BY, AND  
AFTER RECORDING RETURN TO:**

Donna Herr  
Brinker Restaurant Corporation  
6820 LBJ Freeway  
Dallas, Texas 75240

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SHERYL L. WHITE, DAVIS CNTY RECORDER  
2001 NOV 28 9:10 AM FEE 26.00 DEP KM  
REC'D FOR METRO NATIONAL TITLE

**AGREEMENT**

Chili's No. 17

STATE OF UTAH

§

COUNTY OF DAVIS

§

§

**THIS AGREEMENT** (the "Agreement") is entered into as of the 15<sup>th</sup> day of November, 2001, by and among I.G., L.C., a Utah limited liability company ("Ground Lessor"), Sydran Holdings V, LLC, a Nevada limited liability company ("Holdings"), and Brinker Restaurant Corporation, a Delaware corporation, having an office at 6820 LBJ Freeway, Dallas, Texas 75240 ("Brinker").

**WITNESSETH:**

**WHEREAS**, Ground Lessor has leased certain real property and the improvements located thereon (collectively referred to herein as the "Premises") to Sydran Food Services III, L.P., a Nevada limited partnership ("SFS"), pursuant to that certain Ground Lease - Shopping Center Out Parcel, dated as of August 29, 1997 (the "Ground Lease"). The tenant under the Ground Lease is hereinafter referred to as the "Lessee". The Premises are more particularly described on Exhibit A attached hereto; and

**WHEREAS**, SFS assigned all of its right title and interest as Lessee under the Ground Lease to Holdings. Holdings, as sublessor, then subleased the Premises back to SFS, as sublessee, pursuant to that certain Lease, dated as of December 23, 1998 (the "Sublease");

**WHEREAS**, SFS will assign all of its right, title, and interest in and to the Sublease to Brinker, and Brinker will assume all of SFS's obligations under the Sublease, to the extent such obligations accrue after the assignment. Brinker's obligations under the Sublease shall be guaranteed by Brinker International, Inc., a Delaware corporation.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein set forth, the parties hereto do hereby covenant and agree as follows:

1. If the Ground Lease is terminated by Ground Lessor (or anyone claiming through Ground Lessor) prior to expiration of the term of the Ground Lease, then Ground Lessor will

promptly enter into a new lease (the "New Lease") for the Premises with Brinker. Such New Lease: (1) will be effective as of the date of the termination of the Ground Lease, (2) will be for a term expiring as of the last day of the term of the Ground Lease or any extension thereof, and (3) except as otherwise set forth herein, will be on the same terms and conditions as the Ground Lease (including any provisions for renewal or extension of the term thereof). As a condition to the effectiveness of such New Lease, Brinker must pay Ground Lessor an amount equal to all amounts remaining unpaid by Lessee under the Ground Lease, if any, and cure all defaults of Lessee that are reasonably susceptible of being cured. The rights of Brinker in this Section 1 are secondary to the existing rights, if any, of Franchise Finance Corporation of America and its affiliates, and their respective co-participants, successors and assigns (collectively, "FFCA"), and any future lender to Holdings or Holdings' successors or assigns who executes and delivers in recordable form a non-disturbance agreement in favor of Brinker and reasonably satisfactory to Brinker (collectively, "Future Lenders"). FFCA and Future Lenders shall hereafter be referred to collectively as "Lender".

2. No cancellation, surrender or modification of the Ground Lease shall be effective as to Brinker unless consented to in writing by Brinker. Ground Lessor, upon providing Lessee any notice of: (i) default under the Ground Lease; (ii) a termination of the Ground Lease, or (iii) a matter on which Ground Lessor may predicate or claim a default, shall at the same time provide a copy of such notice to Brinker. No such notice by Ground Lessor to Lessee shall be deemed to have been duly given unless and until a copy thereof has been so provided to Brinker. From and after such notice has been given to Brinker, Brinker shall have the same cure periods granted to Lessee under the Ground Lease to cure such default. Ground Lessor shall accept such performance by or at the instigation of Brinker as if the same had been done by Lessee.

3. Notwithstanding anything to the contrary contained in the Ground Lease, if any default shall occur which entitles Ground Lessor to terminate the Ground Lease, Ground Lessor shall have no right to terminate the Ground Lease unless Ground Lessor shall notify Brinker of Ground Lessor's intent to so terminate at least 30 days in advance of the proposed effective date of such termination if such default is capable of being cured by the payment of money, and at least 45 days in advance of the proposed effective date of such termination if such default is not capable of being cured by money.

4. (a) If the Ground Lease is rejected in connection with a bankruptcy proceeding by Lessee or Lessee's trustee in bankruptcy, such rejection will be deemed an assignment by Lessee to Brinker of the leasehold estate and all of Lessee's interest under the Ground Lease. In the case of a deemed assignment, the Ground Lease will not terminate and Brinker will have all rights and obligations of the Lessee as if such bankruptcy proceeding had not occurred. If any court of competent jurisdiction determines that the Ground Lease has been terminated, notwithstanding the terms of this subsection 4.a, as a result of rejection by Lessee or its trustee in a bankruptcy proceeding, Ground Lessor shall enter into a New Lease with Brinker pursuant to the terms set forth in Section 1 above.

(b) If the Ground Lease is rejected by Ground Lessor or by Ground Lessor's trustee in bankruptcy:

(i) Lessee will not have the right to treat the Ground Lease as terminated except with the prior written consent of Brinker, and the right to treat this Lease as terminated in such event is assigned to Brinker so that the concurrence in writing of Brinker is required as a condition of treating the Ground Lease as terminated in connection with such proceeding.

(ii) Unless the Ground Lease is treated as terminated with the consent of Brinker, then the Ground Lease will continue in effect upon all the terms and conditions set forth therein.

The rights of Brinker in this Section 4 are secondary to the rights, if any, of Lender.

5. To the extent that consent is required under the Ground Lease, Ground Lessor agrees that SFS may assign its interest in the Sublease to Brinker. The parties hereto agree that with respect to all obligations of Brinker under the Sublease to perform Lessee's monetary obligations under the Ground Lease, Brinker may pay all such sums directly to Ground Lessor.

6. This Agreement shall be binding upon and inure to the benefit of Ground Lessor, Holdings, and Brinker and their respective successors and assigns.

7. Any notice or document required or permitted to be delivered or remitted hereunder or by law shall be deemed to be delivered or remitted, whether actually received or not (except any payment of rent or other amount shall be deemed to be remitted only when actually received) (a) when delivered in person, (b) three (3) business days after such item is deposited in the United States mail, postage prepaid, certified or registered, return receipt requested or (c) one (1) business day after such item is deposited with Federal Express or other generally recognized overnight courier, shipping charges prepaid, addressed to the appropriate party hereto at its address set out below, or at such other address as it shall have theretofore specified by written notice delivered in accordance herewith:

**GROUND LESSOR:**

Walter Kennedy  
I.G., L.C.  
2677 E. Parleys Way  
Salt Lake City, Utah 84109

With copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

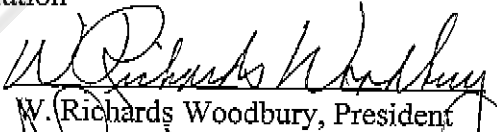
- 8. This Agreement shall be governed by and interpreted under the laws of Utah. The headings to sections of this Agreement are for convenient reference only, do not in any way limit or amplify the terms of this Agreement, and shall not be used in interpreting this Agreement. If any party institutes an action or proceeding to enforce its rights under this Agreement, the prevailing party in such action or proceeding shall be entitled to recover from the other party or parties reasonable attorneys' fees and costs in addition to any other relief awarded by the court.
- 9. This Agreement may be executed in duplicate counterparts, and the counterparts together shall constitute the single binding agreement of the parties.


IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

**GROUND LESSOR:**

I.G., L.C., a Utah limited liability company

By: Woodbury Amsource, Inc., a Utah corporation

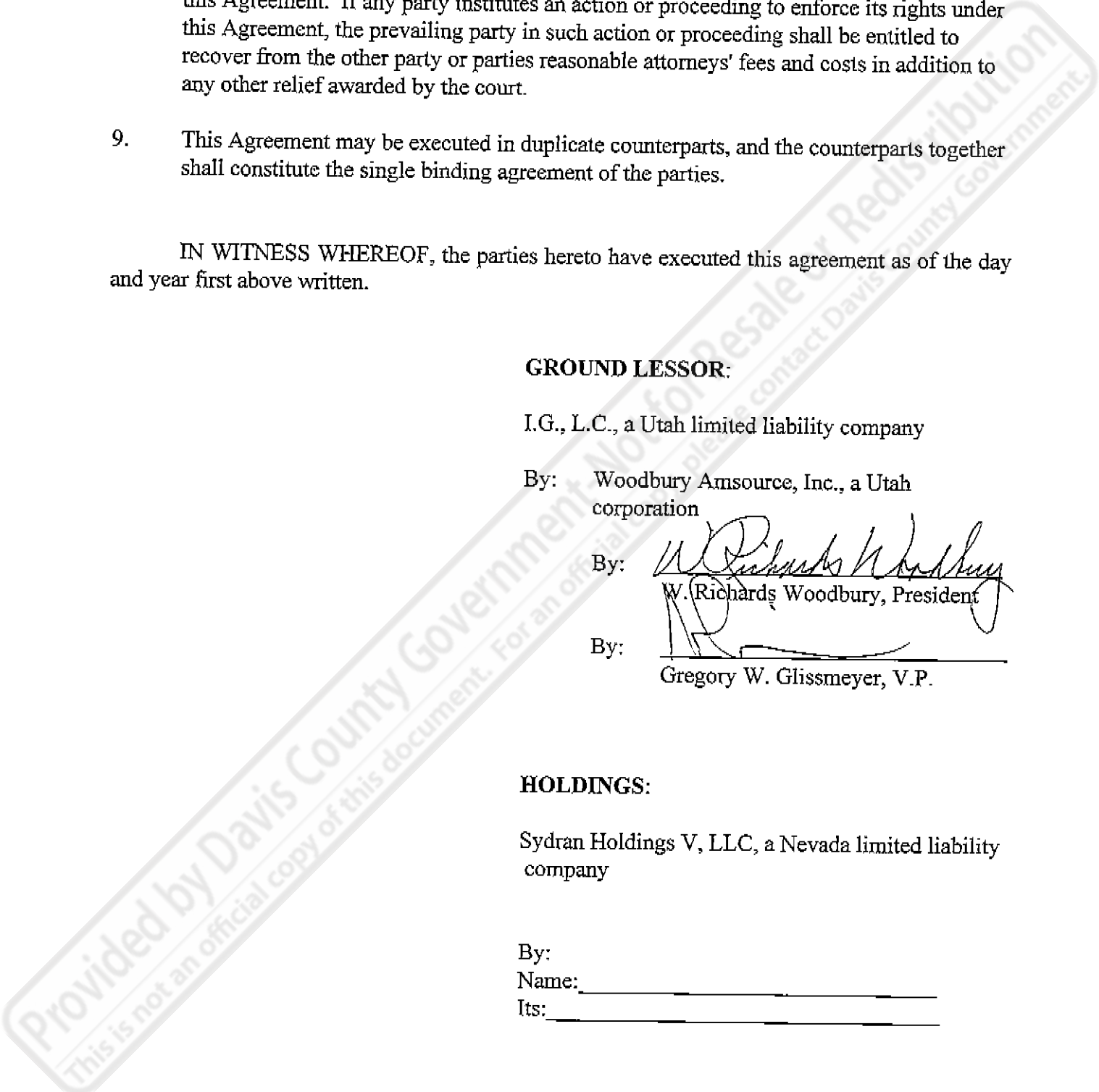
By:   
W. Richards Woodbury, President

By:   
Gregory W. Glissmeyer, V.P.

**HOLDINGS:**

Sydran Holdings V, LLC, a Nevada limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_



IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

**GROUND LESSOR:**

I.G., L.C., a Utah limited liability company

By: Woodbury Amsource, Inc., a Utah company

By: \_\_\_\_\_  
W. Richards Woodbury, President

By: \_\_\_\_\_  
Gregory W. Glissmeyer, Vice President

**HOLDINGS:**

Sydran Holdings V, LLC, a Nevada limited liability company

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

Name: Iver Bowden

Its: Senior Vice President-Development

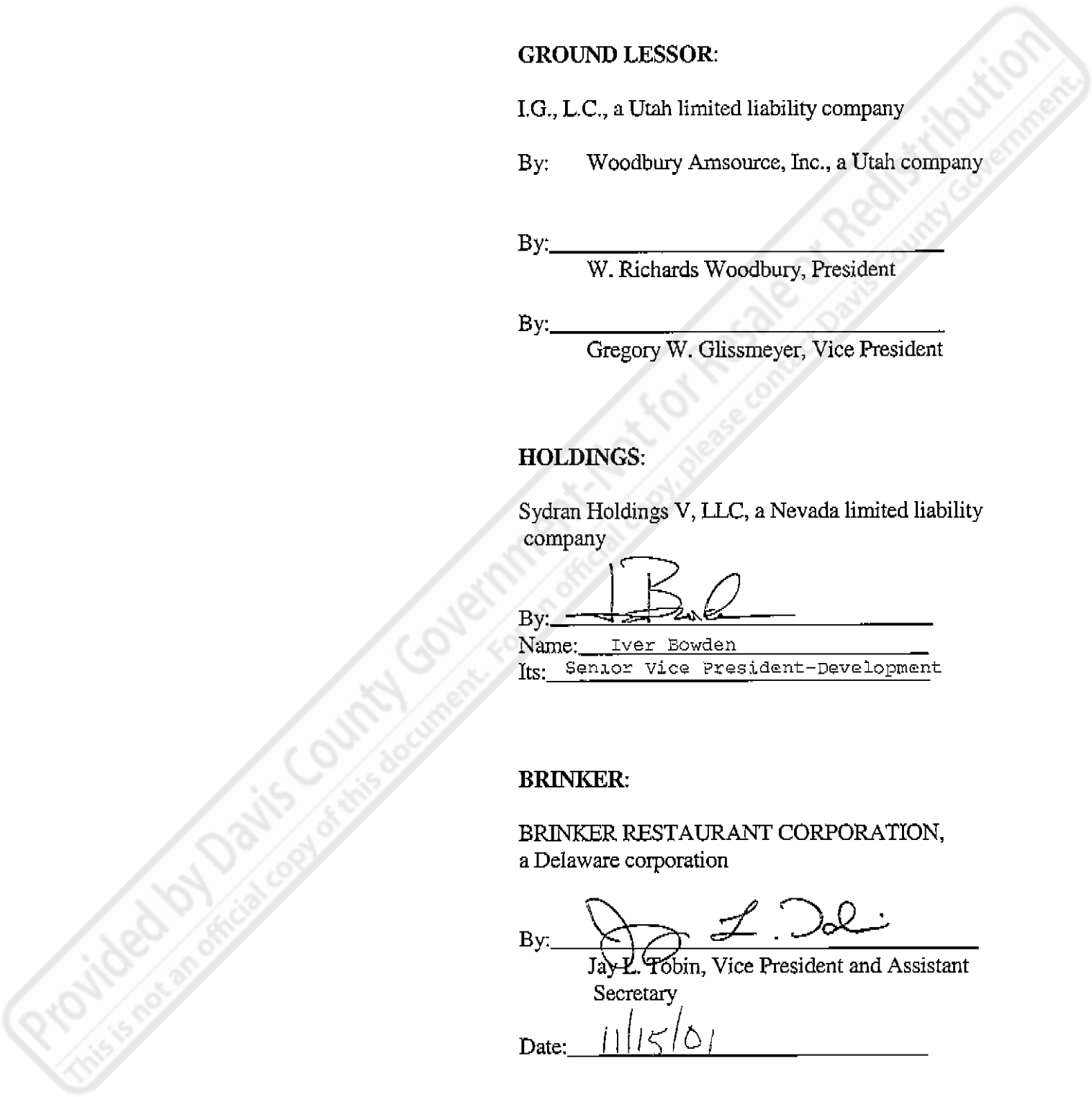
**BRINKER:**

BRINKER RESTAURANT CORPORATION,  
a Delaware corporation

By: J. L. Tobin \_\_\_\_\_

Jay-L. Tobin, Vice President and Assistant Secretary

Date: 11/15/01 \_\_\_\_\_



ACKNOWLEDGMENTS

STATE OF TEXAS           §  
  §  
COUNTY OF DALLAS       §

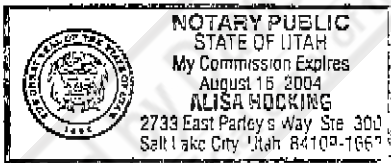
This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2001, by Jay L. Tobin, Vice President and Assistant Secretary of Brinker Restaurant Corporation, a Delaware corporation, on behalf of said corporation.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

My Commission Expires:  
\_\_\_\_\_

STATE OF UTAH           §  
  §  
COUNTY OF SALT LAKE   §

This instrument was acknowledged before me on this 9<sup>th</sup> day of November, 2001, by W. Richards Woodbury, President of I.G., L.C., a Utah limited liability company, and Gregory W. Glissmeyer, Vice President of I.G., L.C., a Utah limited liability company, each on behalf of said limited liability company.



Alisa Hocking  
Notary Public in and for the State of Utah

EWB

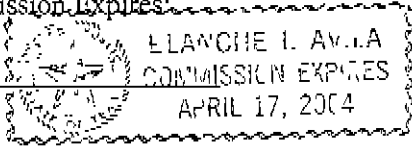
ACKNOWLEDGEMENT

STATE OF TEXAS           §  
  §  
COUNTY OF DALLAS       §

This instrument was acknowledged before me this 13<sup>th</sup> day of November, 2001, by Iver Bowden, Vice President-Development of Zydran Holdings V, LLC, a llc on behalf of said limited liability company.

  
\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

My Commission Expires:



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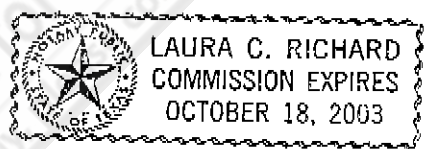
ACKNOWLEDGMENTS

STATE OF TEXAS           §  
  §  
COUNTY OF DALLAS       §

This instrument was acknowledged before me on this 13<sup>th</sup> day of November, 2001, by Jay L. Tobin, Vice President and Assistant Secretary of Brinker Restaurant Corporation, a Delaware corporation, on behalf of said corporation.

Laura C. Richard  
NOTARY PUBLIC, STATE OF TEXAS

My Commission Expires:  
\_\_\_\_\_



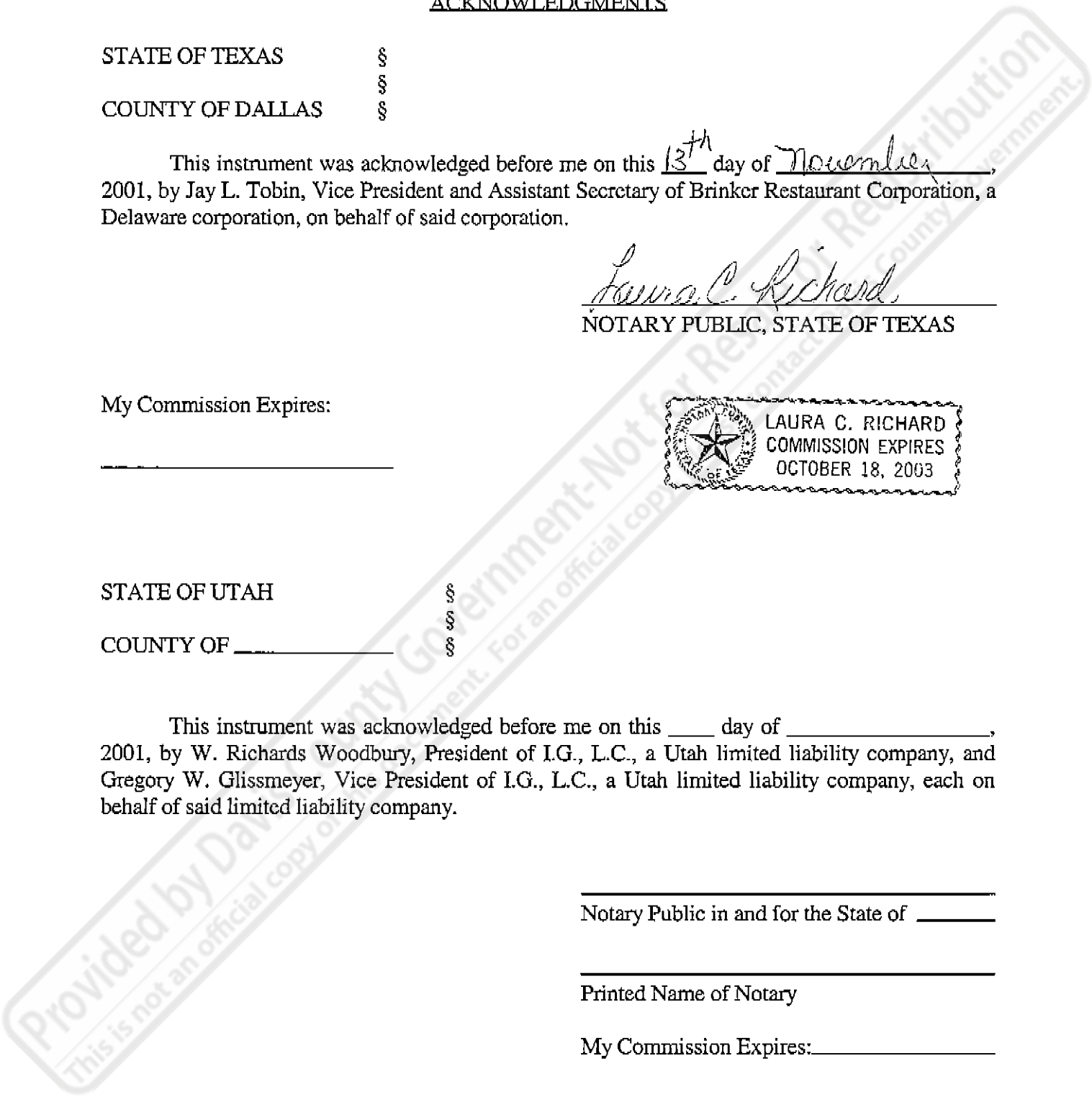
STATE OF UTAH           §  
  §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2001, by W. Richards Woodbury, President of I.G., L.C., a Utah limited liability company, and Gregory W. Glissmeyer, Vice President of I.G., L.C., a Utah limited liability company, each on behalf of said limited liability company.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Notary

My Commission Expires: \_\_\_\_\_





**EXHIBIT A**  
**LEGAL DESCRIPTION**  
(Chili's #17, Layton, Utah)

E 1472255 B 2419 P 4

**Parcel A:**

All of Lot 5A, Layton Market Center Subdivision, 2<sup>nd</sup> Amended, Layton City, Davis County, Utah, according to the official plat thereof.  
10-200-0005

**Parcel B:**

The easement rights accruing to Parcel A under the following:

Operation and Easement Agreement between Dayton Hudson Corporation, a Minnesota corporation, and Woodbury Amsource Inc., a Utah corporation, recorded February 19, 1997, as Entry No. 1305041, in Book 2096, Page 1354, records of Davis County, Utah; First Amendment to Operation and Easement Agreement between Dayton Hudson Corporation, a Minnesota corporation, and Woodbury Amsource Inc., a Utah corporation, recorded July 14, 1997, as Entry No. 1334336, in Book 2151, Page 721, records of Davis County, Utah; Maintenance and Easement Agreement dated February 11, 1997 between Dayton Hudson Corporation, a Minnesota corporation, and Woodbury Amsource Inc., a Utah corporation, recorded February 19, 1997, as Entry No. 1305042, in Book 2096, Page 1451, records of Davis County, Utah.

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Street Address:  
1970 North 1000 West  
Layton, UT 84041

Chili's #17  
FFCA #8000-7981

Legal: Dev\Chili\Layton\LayLegal.doc (12/10/98)

Dev\Chili\Layton\Lay\Lease

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12/11/98