

EPICUREAN AFFAIR 2009 – PARTICIPANT RELEASE AND INDEMNITY AGREEMENT (“AGREEMENT”)

In consideration of being permitted to be a participant at the Epicurean Affair 2009 event (hereinafter the “Event”) on April 23, 2009 (or the delay date) at the Flamingo Las Vegas tropical pool area located at 3555 Las Vegas Boulevard South, Las Vegas, Nevada 89109 (hereinafter the “Premises”), the participant who has filled out the Participant Response Form (hereinafter the “Participant”), and each of its parent and affiliates, as well as each of those entities’ officers, directors, agents, insurers, servants, representatives, assigns and employees acknowledge, agree, and represent the following to Flamingo Las Vegas Operating Company, LLC d/b/a Flamingo Las Vegas (“Flamingo”):

1. Participant acknowledges that Flamingo has granted Participant a license to use a space at the Premises to participate in the Event, and that the Flamingo will have final approval upon the size, design, and appearance of the space. Participant shall maintain the space to the same or better standards of cleanliness and appearance as Flamingo maintains the public areas of the Premises. Participant agrees that it shall assume all liability, whatsoever, regarding its equipment and property on the Premises. The assumption of risk includes damage due to theft, vandalism, fire, water, leaks, etc. whether caused by Flamingo or anyone else’s negligent or intentional acts.
2. Participant acknowledges, represents and warrants that it has all the necessary licenses and permits required to participate in the Event and, upon request, shall provide proof to the Flamingo prior to the Event date. Participant further agrees to follow and abide by Flamingo’s rules and regulations.
3. Participant further acknowledges and agrees that Flamingo may terminate its participation in the Event if: a) Participant violates or breaches any term, condition or covenant in this Agreement; b) Participant acts in a manner that does not conform to the reasonable rules, standards, or practices established by Flamingo; c) Participant fails to attend the mandatory meetings or other meetings as required by Flamingo, or d) so determined by Flamingo, in its sole and absolute discretion.
4. Participant shall not, without the prior written consent of Flamingo, cause or permit, knowingly or unknowingly, any hazardous material to be brought or remain upon, kept or used in or about the space. If the presence of any hazardous material in or upon the space and/or Premises results in contamination of the space and/or Premises, the atmosphere, or any water or waterway (including groundwater), or if contamination of the space and/or Premises by any hazardous material otherwise occurs for which Participant is otherwise legally liable to Flamingo for damage resulting therefrom, the indemnification obligations set forth in Section 5 herein shall apply to this Section 4.
5. Participant does hereby release, waive, discharge and covenants not to make any claim in any forum against Flamingo Las Vegas Operating Company, LLC d/b/a Flamingo Las Vegas and its parent, subsidiaries or affiliated entities and/or its directors, officers, employees, agents or assigns (collectively, the “Released Parties”) in connection with participation in the Event. The Participant represents, understands and acknowledges that Flamingo is an official sponsor of the Event and has no active participation in the Event other than coordinating and providing the location, number of people, date and time with the Nevada Restaurant Association and the Nevada Hotel & Lodging Association. The release given herein shall constitute an agreement to defend, indemnify and hold harmless Flamingo and the Released Parties for any and all liability, including any loss or damage and any claim or demand therefore on account of injury to any person or property or resulting in injury or death arising out of or related to the Event, whether caused by the negligence of the Participant, the sponsors, or otherwise.
6. Participant agrees that this Release and Indemnity Agreement extends to any and all acts of negligence of Released Parties, and their employees and is intended to be as broad and inclusive a release as is permitted by the laws of the State of Nevada. If any portion of this Release is held to be invalid, it is agreed that the remaining provisions, notwithstanding the invalid portion, shall continue in full force and effect.
7. If suit should arise hereon, the prevailing party therein shall be entitled to recovery of reasonable attorneys’ fees expended in the defense of any claim and costs of suit. The courts of Clark County, Nevada and the laws of the State of Nevada shall be the sole and exclusive venue and forum for any litigation and for enforcing and interpreting any provision hereunder.
8. The Participant agrees to procure and maintain general liability insurance coverage in connection with the Event, which shall be: (i) in the amount of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in aggregate for bodily injury and property damage, if the Participant does not serve alcoholic beverages; or (ii) Five Million Dollars (\$5,000,000) per occurrence and Five Million Dollars (\$5,000,000) in aggregate for bodily injury and property damage, including liquor liability, if the Participant does serve alcoholic beverages. The Participant shall also maintain business auto liability insurance with a limit of not less than One Million Dollars (\$1,000,000) per accident. **“Flamingo Las Vegas Operating Company, LLC d/b/a Flamingo Las Vegas, its parent and affiliates”** shall be named as additional insureds on the above policies.
9. Participant acknowledges that Flamingo conducts a business that is subject to and exists because of privileged licenses issued by governmental authorities. Participant therefore agrees that, in the event that Flamingo, acting in its sole and absolute discretion, determines that Participant is or might be engaged in or about to be engaged in any activity or activities which could adversely affect Flamingo’s business or such licenses (or the business or licenses of any of Flamingo’s parent or affiliates), Flamingo shall have the right to immediately terminate this Agreement at no cost to Flamingo, at which time this Agreement shall be of no further force or effect. Thereafter, Flamingo shall have no further obligation to Participant and Participant agrees to release and hold harmless Flamingo from and against any and all claims of damage or injury arising out of or relating to termination of the Agreement pursuant to this Section.

The Participant has read this Agreement and fully understands its terms, and understands that it has given up substantial rights by signing this Agreement, and it has signed it freely and voluntarily without any representation, warranty, inducement, assurance or guarantee being made to it by the Released Parties. The Participant intends, by its signature for this Agreement to be a complete and unconditional release of liability to the greatest extent allowed by law. The Participant understands that its representations and warranties contained herein permit it to participate in the Event. The Participant further understands that an executed facsimile copy of this Agreement shall be deemed an original.

On Behalf of: _____ Date: _____
(Company Name)

By: _____ Print Name and Title: _____