

## FOURTH AMENDMENT TO RETAIL LEASE

**THIS FOURTH AMENDMENT TO RETAIL LEASE** (“Fourth Amendment”) is made effective on the \_\_\_ day of \_\_\_\_\_, 202\_\_\_, by and between the CITY OF LAKE WORTH BEACH, a Florida Municipal Corporation (“Landlord”) and RTT-BENNY’S ON THE BEACH, INC., a Florida corporation, DBA Benny’s on the Beach Oceanwalk (“Tenant/Sublessor”) and SUSHI BY BOU GLOBAL LLC, a New York limited liability company, authorized to conduct business in the State of Florida (“Subtenant”) (Landlord, Tenant/Sublessor, and Subtenant are collectively referred to as the “Parties”).

### RECITALS

**WHEREAS**, on March 19, 2012, the Landlord and the original tenant, Shore Restaurants of Lake Worth, LLC (“Shore Restaurants”) entered a retail lease for Units #7 and #8 at the Lake Worth Beach Municipal Casino Building (“Premises”) (“Lease”); and

**WHEREAS**, on January 21, 2016, the Landlord and Shore Restaurants entered that First Amendment to the Lease allowing the assignment of the Lease to Mulligans Lake Worth Acquisitions, LLC (“Mulligans”); and

**WHEREAS**, on July 14, 2020, the Landlord and Mulligans entered that Second Amendment to the Lease allowing the assignment of the Lease to NuStart, Ltd. DBA Viva la Playa; and

**WHEREAS**, on October 17, 2023, the Landlord and the Tenant/Sublessor entered into the Third Amendment to Retail Lease for the assignment of the Lease to RTT-Benny’s On the Beach, Inc.; and

**WHEREAS**, the Parties desire to amend the Lease to consent to and address the sublease of approximately 400 square feet of the Premises to the Subtenant; and,

**WHEREAS**, the City Commission finds amending the Lease as set forth herein serves a valid public purpose.

**NOW THEREFORE**, in consideration of the promises and mutual covenants contained in the Lease, as previously amended, and this Fourth Amendment, and for other good and valuable consideration, the receipt of which the Parties expressly acknowledge, the Parties agree to amend the Lease as follows:

1. **Recitals and Definitions.** The foregoing recitals are hereby incorporated into this Fourth Amendment as true and correct statements of the Parties and form part of the consideration for this Fourth Amendment. All material terms as utilized in this Fourth Amendment are as defined in the Lease.
2. **No Default.** The Parties agree that the Lease remains in full force and effect and that there are no defaults or disagreements with regard to the terms and conditions set forth in the Lease.
3. **Sublease; Subtenant’s Compliance with Lease.**
  - a. **Sublease.** The Parties agree to the Tenant/Sublessor’s sublease of approximately 400 square feet of the Premises to the Subtenant. The Subtenant shall not assign, sublet or otherwise transfer the right to use the Premises to any other person or entity or otherwise allow a third party to occupy any of the Premises. Any conflicts between the agreement between the Tenant/Sublessor and the Subtenant (“Sublease Agreement”) and the Lease, as currently amended and as amended from time to time, shall be resolved in accordance with the Lease. The Tenant/Sublessor and the Guarantor shall remain fully liable for all obligations under the Lease following the effective date of any Sublease Agreement.

- b. **Subtenant's Compliance with Lease.** The Subtenant (including its heirs, personal representatives, successors and assigns) hereby agrees to be subject to and comply with all terms and conditions (applicable to the Tenant) set forth in the Lease, as previously amended and as amended from time to time, including but not limited to the indemnification of the Landlord.
4. **Waiver of Right of Termination and Sublease Payment.** Sections 6.1 of the Lease authorizes the Landlord to terminate the Lease upon notice of a requested sublease and Section 6.2 requires the Tenant/Sublessor to pay the Landlord any amount received from Subtenant for the subletting of the Lease in excess of the Rent then being paid by the Tenant/Sublessor to the Landlord. Solely for the purposes of this Fourth Amendment, the Landlord waives its right of termination under Section 6.1 of the Lease and waives its right to any payment that may be due from the Tenant/Sublessor and/or Subtenant under Section 6.2. Further Exhibit H to the Lease, at paragraph 1.2, provides that the Tenant/Sublessor's renewal option will cease to exist if the Tenant/Sublessor sublets the Premises (or any part thereof). Solely for the purposes of this Fourth Amendment, the Landlord waives paragraph 1.2 of Exhibit H as it relates to the sublease with the Subtenant.
5. **Administrative Fee and Attorneys' Fees.** Section 6.1 requires that the Tenant/Sublessor pay the Landlord an administrative fee of \$1,000.00 plus all reasonable attorneys' fees and actual costs associated with Landlord's consideration of Tenant's transfer request and the review and preparation of all documents associated therewith. Tenant shall pay the City the administrative and attorneys' fees (total amount of \$\_\_\_\_\_.00) within five (5) business days of the effective date of this Fourth Amendment; otherwise, the City may render this Fourth Amendment null and void, in its sole discretion.
6. **Insurance.** On or before the effective date of the Sublease Agreement between the Tenant/Sublessor and the Subtenant, Tenant/Sublessor shall provide the City with the Subtenant's certificates of insurance naming the "City of Lake Worth Beach, its officials, employees, agents and representatives" as an Additional Insured with coverage types and amounts as required for the Tenant under the Lease or as otherwise agreed to in writing by the City. The City Manager (with the advice of the Risk Manager) may agree to such insurance on behalf of the City Commission.
7. **Amended Sections.** The following specific amendments are made to the Lease:
- a. **Tenant's Trade Name.** Subsection 1.3 is amended to reflect the new additional trade name of the Subtenant as, "Sushi by Bou."
- b. **Permitted Use of the Premises.** Subsection 1.8 is deleted and amended in full to reflect the new permitted use (new language is underlined) as, "Tenant is leasing the subject property for use as an American-themed Family Restaurant and Bar for on and off-premises consumption, a sushi restaurant (approximately 400 square feet), and for retail sales and other incidental uses and for no other purpose whatsoever. Restaurant shall be allowed to have a full service bar during all hours of operation serving beer, wine, spirits, and other alcoholic beverages with its SRX or COP license."
- c. **Indemnification.** Section 18 of the Lease "Indemnification" is hereby amended to include the following: "Nothing contained in this paragraph or elsewhere in the Lease shall be construed or interpreted as consent by the Landlord to be sued, nor as a waiver of sovereign immunity beyond the waiver and limits provided in Section 768.28, Florida Statutes, as amended from time to time. The limitations and provisions set forth in Section 768.28 are deemed to apply to this Lease to claims or actions arising in tort and/or contract. This paragraph shall survive the expiration or earlier termination of the Lease."

8. **Coercion for Labor and Services.** The Tenant/Sublessor and Subtenant, by signing this Amendment as set forth below, attests that each does not use coercion for labor or services as defined in section 787.06, Florida Statutes, as amended from time to time.
9. **Agreement Unchanged.** Except as amended herein, all other provisions of the Lease, as previously amended, shall remain in full force and effect.
10. **Controlling Documents.** To the extent that there exists a conflict between this Fourth Amendment and the Lease (as previously amended), the terms and conditions of this Fourth Amendment shall prevail. Whenever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between the provisions of the various documents.
11. **Entire Agreement.** The Parties agree that the Lease (as previously amended) and this Fourth Amendment represent the entire agreement between the Parties and supersede all other negotiations, representations, or agreements, either written or verbal.
12. **Counterparts.** Each party may sign one copy of this Fourth Amendment and together, whether by signed original or facsimiled or e-mailed copy, the signed copies shall constitute one, fully executed Fourth Amendment.
13. **Effective Date.** This Fourth Amendment shall not be binding upon the Parties until approved by Tenant/Sublessor, Subtenant, and the City Commission of the City of Lake Worth Beach. The Effective Date of this Fourth Amendment shall be the date set forth above.

**IN WITNESS WHEREOF**, the Parties have caused this Fourth Amendment to the Lease to be executed by their duly authorized representatives on the date set forth above.

**CITY OF LAKE WORTH BEACH, FLORIDA**

By: \_\_\_\_\_  
Betty Resch, Mayor

**ATTEST:**

\_\_\_\_\_  
Melissa Ann Coyne, CMC, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL  
SUFFICIENCY

By: \_\_\_\_\_  
Glen J. Torcivia, City Attorney

By: \_\_\_\_\_  
Yannick Ngendahayo, Financial Services Director

**[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.  
SIGNATURE PAGE FOR TENANT/SUBLESSOR  
AND SUBTENANT FOLLOWS.]**

TENANT/SUBLESSOR:  
RTT-BENNY'S ON THE BEACH, INC.  
DBA BENNY'S ON THE BEACH OCEANWALK

Witnesses:

By: [Signature]  
Print Name: Salisha Gonzalez

By: [Signature]  
Print Name: Dylan Sweet

By: [Signature]  
Lee M. Lipton, President

[Corporate Seal]

STATE OF FLORIDA)  
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me, by means of  physical presence or  online notarization, this 9 day of December, 2024, by LEE M. LIPTON, as the PRESIDENT of RTT-BENNY'S ON THE BEACH, INC. DBA BENNY'S ON THE BEACH OCEANWALK, a Florida corporation and who  is personally known to me or  who has produced the following FL DL as identification, and who did take an oath that the facts stated with regard to section 787.06, Florida Statutes, are true and correct, and that he or she is duly authorized to execute the foregoing instrument and bind the Tenant/Sublessor to the same.



Notary Public [Signature]  
Print name: Nylah Mohammed  
My commission expires: 03/27/2027

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**SIGNATURE PAGE FOR SUBTENANT FOLLOWS.**

Witnesses:

SUBTENANT  
SUSHI BY BOU GLOBAL LLC  
a New York limited liability company

By: [Signature]  
Print Name: Eric Flores

By: [Signature]  
Authorized Representative  
Print Name: Erika London  
Print Title: CEO

By: [Signature]  
Print Name: Andre S. Teuaf  
Florida  
STATE OF NEW YORK)  
COUNTY OF NEW YORK) PALM BEACH

The foregoing instrument was acknowledged before me, by means of  physical presence or  online notarization, this 10<sup>th</sup> day of December, 2024, by Erika London [name], as the CEO [title] of SUSHI BY BOU GLOBAL LLC, and who  is personally known to me or who  has produced the following A.N. 1535-209-86-7490 identification, and who did take an oath that the facts stated with regard to section 787.06, Florida Statutes, are true and correct, and that he or she is duly authorized to execute the foregoing instrument and bind the Subtenant to the same.

Notary Public



Print name: HENRY Renaud  
My commission expires: 06/07/2026