

RESOLUTION NO. R-2013-335

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, APPROVING THE FIRST OF THREE ADDITIONAL ONE YEAR EXTENSION OF THE SUBLEASE AGREEMENT BETWEEN JCD GOLF OF FLORIDA, INC., AND NIKKI'S ON THE GREEN, INC., FOR THE OPERATION OF FOOD AND BEVERAGE SERVICES AT ORANGEBROOK GOLF AND COUNTRY CLUB.

WHEREAS, JCD Golf of Florida, Inc., ("JCD") is the Management Company currently operating Orangebrook Golf and Country Club ("Orangebrook") under a Management Agreement with the City of Hollywood ("City"); and

WHEREAS, Section 21 of said Management Agreement permits JCD to sublease its food and beverage operation to a third party, upon the approval of the City Commission; and

WHEREAS, on September 7, 2011, the City Commission passed and adopted Resolution No. R-2011-215 which approved an agreement between JCD and Nikki's on the Green, Inc. ("Nikki's") for the operation of food and beverage services at Orangebrook; and

WHEREAS, the term of the agreement was for a period of two years with three additional one year extensions; and

WHEREAS, on June 20, 2012, the City Commission passed and adopted Resolution No. R-2012-192 which approved an amendment to the agreement between JCD and Nikki's wherein the contract payments were changed due to the actual revenue numbers that have been produced from December through February and the lack of revenue and customers in the "off season" months; and

WHEREAS, JCD and Nikki's desire to exercise the first renewal option under the same terms and conditions as set forth in the August 10, 2011 agreement and as amended in 2012 with the contract payments to be \$6,000.00 per month for October, 2013 and November, 2013, \$8,000.00 per month from December 1, 2013 through April 30, 2014, and \$6,000.00 from May 1, 2014 through September 30, 2014;

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, APPROVING THE FIRST OF THREE ADDITIONAL ONE YEAR EXTENSION OF THE SUBLEASE AGREEMENT BETWEEN JCD GOLF OF FLORIDA, INC., AND NIKKI'S ON THE GREEN, INC., FOR THE OPERATION OF FOOD AND BEVERAGE SERVICES AT ORANGEBROOK GOLF AND COUNTRY CLUB.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That it hereby approves the renewal of the Sublease Agreement between JCD Golf of Florida, Inc., and Nikki's on the Green, Inc., for the operation of food and beverage services at Orangebrook Golf and Country Club.

Section 2: That this Resolution shall be in full force and effect immediately upon its passage and adoption.

PASSED AND ADOPTED this 20 day of Nov, 2013.


  
\_\_\_\_\_  
PETER BOBER, MAYOR

ATTEST:

  
\_\_\_\_\_  
PATRICIA A. CERNY, MMC, CITY CLERK

APPROVED AS TO FORM AND LEGALITY

For the use and reliance of the  
City of Hollywood, Florida, only.

  
\_\_\_\_\_  
JEFFREY SHEFFEL, CITY ATTORNEY *DR*

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September 20, 2013

Nikki's on the Green  
421 N.E. 14<sup>th</sup> Avenue, #307  
Hallandale, FL 33009

Dear Sharon,

We would like to request a renewal of our contract, pursuant to the agreement dated August 10, 2011 between JCD Sports Group and Nikki's on the Green. The contract allows for three one year renewals.

We are requesting renewal with the same terms and conditions as our current agreement.

If you have any questions or comments please contact me.

Sincerely,

*Eugenia Ilic*



### AGREEMENT

This Agreement ("Agreement") is made by and between JCD Golf of Florida Inc., a Florida corporation ("CONTRACTOR") and Nikki's on the Green, Inc., a Florida S-corporation ("SUBCONTRACTOR") relative to the provision of catering services at Orangebrook Golf & Country Club ("CLUB") located in Hollywood, Florida pursuant to the following terms and conditions:

1. Term. This Agreement shall commence on August 1, 2011 ("Commencement Date") and shall terminate on September 30, 2013 unless earlier terminated as provided elsewhere in this Agreement ("Termination Date") with option for three (3) one (1) year renewals. Rate for renewals to be negotiated.

2. Termination. Notwithstanding the Term of this Agreement described above, either CONTRACTOR or SUBCONTRACTOR, with cause, may terminate this Agreement upon (60) days prior upon written notice of termination to the other party. In addition, CONTRACTOR shall have additional rights of termination of this Agreement, which may be exercised immediately and without prior notice whatsoever, in the event that the CONTRACTOR'S agreement with the City of Hollywood ("CITY") for management of the CLUB is terminated at any time for any reason or if Eugenia and Vladan Ilic are absent for more than 30 days and/or are no longer responsible for the hands on day to day operation of the food and beverage operations at Club.

3. Personnel. SUBCONTRACTOR represents that it has or will hire, or contract with, at its sole cost and expense, all necessary personnel required to perform the services under this Agreement. All personnel hired or engaged by SUBCONTRACTOR shall be employees or independent contractors of SUBCONTRACTOR and, except as stated below, shall have no contractual relationship with the CONTRACTOR. CONTRACTOR shall have no responsibility or liability relative to such employees or independent contractors of SUBCONTRACTOR, including, without limitation, liability relative to payroll taxes or any required insurance coverages. The SUBCONTRACTOR warrants that all services provided hereunder shall be performed by skilled and competent personnel and to the highest level of performance standards in the food service and catering industry. Notwithstanding the foregoing, SUBCONTRACTOR may, upon the prior consent of CONTRACTOR, hire individuals who are also employees of CONTRACTOR, for certain limited purposes and events of SUBCONTRACTOR. In connection with any hiring of CONTRACTOR'S employees by SUBCONTRACTOR, SUBCONTRACTOR shall be solely responsible for the payment of all wages, benefits, payroll taxes and required insurance relative to such persons. In the performance of the services as described in this Agreement, SUBCONTRACTOR shall not discriminate against any person, employee, or applicant for employment, because of race, creed, color, religion, sex, national origin, ancestry, age or disability.

4. Fixtures/Equipment/Inventory. SUBCONTRACTOR has reviewed or had an opportunity to review the fixtures, equipment and inventory located at the CLUB relative to the food service and catering operation at the CLUB and agrees and acknowledges that such items are acceptable to SUBCONTRACTOR in their present "as-is, where-is" condition and that except as expressly stated in this Agreement CONTRACTOR makes no representations, warranties or assurances as to the condition of such items. Notwithstanding the foregoing, CONTRACTOR and SUBCONTRACTOR acknowledge and agree that the assets described in Exhibit A attached hereto and made a part hereof will be present at the CLUB and available for SUBCONTRACTOR'S use in connection with the services to be provided hereunder by SUBCONTRACTOR at the CLUB. Upon termination of this Agreement for any reason whatsoever, those items described on Exhibit A (or reasonable replacements), will remain the property of the CLUB.

5. Payment to CITY. In consideration of the SUBCONTRACTOR'S right to conduct the food service operation at the CLUB as described herein, SUBCONTRACTOR shall pay to the CITY \$6,000 per month from August 1, 2011 through November 30, 2011 and \$10,000 per month beginning December 1, 2011 through September 30, 2013. Payment due by the first day of the month payable to Orangebrook Golf & Country Club. Notwithstanding SUBCONTRACTOR'S obligation to pay the foregoing amounts, if the Club, including the golf course and the clubhouse, is damaged by any casualty which is not the fault of the SUBCONTRACTOR or its agents or employees (a "Casualty") and such Casualty closes the golf course or otherwise materially impairs the

SUBCONTRACTOR'S ability to provide the food and catering services at the Club, the amounts required to be paid by SUBCONTRACTOR hereunder shall be reduced or eliminated until the damage is restored. The duration and the amount of the reduction in the payment by the SUBCONTRACTOR shall be as mutually agreed upon in good faith by the SUBCONTRACTOR, CONTRACTOR and the CITY." Any such abatement granted shall be reduced or offset by any insurance proceeds received by the Lessee.

6. **Reports.** In consideration of the SUBCONTRACTOR'S right to conduct the food service operation at the CLUB as described herein, SUBCONTRACTOR will provide CONTRACTOR with monthly reports including gross revenues and expenses of all CLUB operations. Gross sales shall include any and all revenue, receipts, cash or other payments or considerations received by the SUBCONTRACTOR during the applicable period, without set-off or reduction whatsoever, relative to the food, beverage, (specifically including without limitation bar, grill, on course sales, catering and all alcoholic beverage sales) catering and rental operations at the CLUB as contemplated in this Agreement, as well as any off-site catering. In addition, an annual report such as financial statement and/or tax return are required to be submitted by the SUBCONTRACTOR.

7. **Rates.** SUBCONTRACTOR shall submit to CONTRACTOR a proposed schedule of menus and prices prior to the Commencement Date of this Agreement. The CONTRACTOR reserves the right to review and approve all items for sale to the public at the CLUB.

8. **Service.** SUBCONTRACTOR will provide food and beverage concession service to golfers, tournament groups and visitors of the CLUB and golf courses during all golf course operating hours including two beverage carts servicing the golf course, as well as catering and restaurant functions in its banquet facilities. In connection with providing the food and beverage concession services described in the prior sentence, SUBCONTRACTOR is granted the right to occupy those portions of the clubhouse designated for kitchen, restaurant and banquet facilities, and is also granted the right to enter upon and use all areas of the golf course in connection with the operation of the beverage carts. The CONTRACTOR and the CITY considers the food and beverage service a critical factor in the overall operation of the CLUB. The operation must be at a highly professional level in accordance with similar operations at other quality municipal golf facilities. SUBCONTRACTOR will provide a menu that is attractive to golfers and other casual visitors to the CLUB, as well as small groups, social gatherings such as weddings and family parties and other catered functions which may be appropriate. Small group dinners, special event menus and indoor and/or outdoor service will be provided. Every effort will be made to use fresh produce and prime cut meats in all restaurant meals. Off-site catering may also occur with the prior approval by the CONTRACTOR and CITY. SUBCONTRACTOR shall allow not-for-profit community organizations to use the meeting room at the CLUB at no cost during normal operating hours; provided, however, that such use does not interfere with SUBCONTRACTORS prior commitments for the meeting room and does not involve religious services. All food and beverage consumed during such use shall be purchased from SUBCONTRACTOR and shall be included in the calculation of gross sales pursuant to Paragraph 5 above. Any costs for overtime or time outside normal operating hours, including set up or tear down, will be paid for by the community organization.

9. **Complaints.** SUBCONTRACTOR shall provide to CONTRACTOR copies of any and all letters, memos or written complaints received along with the SUBCONTRACTOR'S response thereto, and SUBCONTRACTOR shall use its best efforts to resolve in an amicable, timely and professional manner any complaints.

10. **Purchases.** SUBCONTRACTOR shall be responsible for making all purchases of goods and services necessary to operate and manage the food service and catering facility at the CLUB, at its sole cost and expense.

11. **Liquor License.** SUBCONTRACTOR shall purchase all alcoholic beverages for use in connection with the food service and catering facility at the CLUB under the catering liquor license of the SUBCONTRACTOR. SUBCONTRACTOR shall be liable for all liquor purchases and shall make all payments and provide such reports as required, all pursuant to and in compliance with all governmental regulations applicable to the SUBCONTRACTOR'S catering liquor license. SUBCONTRACTOR will be allowed to provide the general public alcoholic beverages for consumption within the confines of the CLUB. Alcoholic beverage sales are to be restricted within the guidelines established by State and local agency laws, license agreements and permits.

Coordination of all permits conditions and insurance associated with the sale of alcoholic beverages is the sole responsibility of the SUBCONTRACTOR. The CLUB's liquor license belongs to the CITY and will be transferred to the SUBCONTRACTOR for the term of this agreement. Upon termination of this Agreement, no matter the terms, to the extent permitted under applicable laws of regulations, SUBCONTRACTOR will cooperate in the transfer of the liquor license to CONTRACTOR or the CITY.

12. **SUBCONTRACTOR Responsibilities.** SUBCONTRACTOR shall be responsible for all costs and expenses incurred in connection with the operation of the food service and catering facility at the CLUB, which shall include, without limitation, the following:

- |                      |   |
|----------------------|---|
| 1) Employee Payroll  | 11) Food & Beverage   |
| 2) Employee Benefits | 12) Cable/satellite   |
| 3) Advertising       | 13) Restaurant Supplies (including glassware, china and silverware)                                       |
| 4) Telephone         | 14) Linens  |
| 5) Postage           | 15) Kitchen, snack shack and bar equipment repairs and maintenance including beverage cart and dishwasher |
| 6) Printing          | 16) Gas   |
| 7) Pest Control      | 17) Dishwasher lease/ingredients  |
| 8) Credit Card Fees  | 18) Licenses required for operation of food and beverage operation  |
| 9) Uniforms          | 19) Reimbursement for leased beverage cart as long as cart is desired                                     |
| 10) Liquor Tax       | 20) Responsible for structural repair of walls, roofs and glass caused by patrons or employee negligence  |

13. **CONTRACTOR Responsibilities.** CONTRACTOR, and/or the CITY pursuant to CONTRACTOR'S contract with the CITY, shall be responsible for the cost and expense of the following items:

- |                            |                                |
|----------------------------|--------------------------------|
| 1) Water                   | 5) Security                    |
| 2) Trash Removal           | 6) Hood and Ventilation System |
| 3) Air Conditioning System | 7) Electricity                 |
| 4) Building Maintenance    |                                |

14. **Laws, Regulations, Permits and Taxes - General.** SUBCONTRACTOR expressly covenants, warrants, guarantees that throughout the term of this Agreement, SUBCONTRACTOR shall at all times be and shall remain in full and complete compliance with all applicable statutes, regulations, rules, rulings, orders, ordinances, or directives of any kind or nature without limitations as same may be amended, of any and all Federal, State, or local government bodies now or hereafter having jurisdiction over SUBCONTRACTOR, SUBCONTRACTOR'S operations conducted under this Agreement at the CLUB, and over those employees, persons and entities performing any work or services hereunder on behalf of SUBCONTRACTOR or at SUBCONTRACTOR'S request. SUBCONTRACTOR further covenants, warrants, guarantees, and agrees that it shall comply with all ordinances, all operational orders issued thereunder, and any and all other laws, regulations, rules and orders of any governmental entity which may be applicable to SUBCONTRACTOR or in any way to SUBCONTRACTOR'S business operations under this Agreement, as said laws, ordinances, regulations, rules, and orders currently exist, or are hereinafter amended, promulgated, or otherwise imposed on SUBCONTRACTOR by law.

15. **Permits and Licenses.** SUBCONTRACTOR expressly covenants, warrants, and agrees that it shall obtain and maintain current, and fully comply with, any and all permits, licenses and other governmental authorizations, however designated, as may be required at any time throughout the entire term of this Agreement by

any Federal, State, or local government entity or any court of law having jurisdiction over SUBCONTRACTOR or SUBCONTRACTOR'S operations and activities, for any activity of SUBCONTRACTOR conducted at the CLUB and for any and all operations conducted by SUBCONTRACTOR. This shall specifically include without limitation ensuring that all legal requirements, permits, and licenses necessary for or resulting, directly or indirectly, from SUBCONTRACTOR'S activities at the CLUB have been obtained and are in full force and effect and otherwise in compliance with all laws. Upon the written request by the CONTRACTOR or the Director of Parks and Recreation for the CITY pursuant to the CONTRACTOR'S agreement with the CITY, SUBCONTRACTOR shall provide to CONTRACTOR or CITY certified copies of any and all permits and licenses which are requested.

16. **Taxes.** The SUBCONTRACTOR shall collect and pay all Florida sales and use tax and any other tax(es) which may be applicable to the sale of food and beverages, catering and other operations of the SUBCONTRACTOR in accordance with this Agreement.

17. **Safety Regulations.** SUBCONTRACTOR covenants, warrants, guarantees, and agrees that it shall conduct its operations and activities under this Agreement in a safe manner, shall comply with all safety regulations and standards imposed by applicable Federal, State and local laws and regulations and standards imposed by applicable Federal, State and local laws and regulations and shall require the observance thereof by all employees, contractors, business invitees and all other persons transacting business with or for SUBCONTRACTOR resulting from, or in any way related to, the conduct of SUBCONTRACTOR'S business at the CLUB. SUBCONTRACTOR shall maintain such fire prevention and extinguishing devices at SUBCONTRACTOR'S sole cost and expense as required by CONTRACTOR or as required pursuant to applicable laws, codes, ordinances and regulations or pursuant to any insurance requirements. SUBCONTRACTOR shall at all times be familiar and comply with the fire regulations and orders of the CONTRACTOR and the fire control agency within the jurisdiction at the CLUB, as same may now exist or hereafter come into being. SUBCONTRACTOR hereby agrees that neither SUBCONTRACTOR nor employee, independent contractor or any person working for or on behalf of the SUBCONTRACTOR, shall require any personnel engaged in the performance of SUBCONTRACTOR'S operations to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health or safety, as determined by standards adopted pursuant to the Occupational Safety and Health Act of 1970, as same may be amended from time to time, as well as all State and local laws, regulations, and orders relative to occupational safety and health.

18. **Insurance.** Unless otherwise specified in this contract, SUBCONTRACTOR must, at its sole cost and expense, maintain in effect at all times during the Term of this Agreement the following required insurance coverages with limits not less than those set forth below:

A. **Commercial General Liability.** SUBCONTRACTOR shall maintain Commercial General Liability, occurrence form, with minimum limits of \$1,000,000.00 per occurrence combined single limit for bodily injury, personal injury, and property damage liability. Coverage shall include, but not be limited to, Premises and Operations, Independent Contractors, Products and Completed Operations, Contractual Liability, Liquor Liability, Personal Injury and Advertising Injury, Medical Payments, and Broad Form Property Damage coverage parts, including fire damage. When applicable, coverage for the hazards of explosion, collapse and underground property damage (S-C-U) must also be included.

B. **Business Auto Liability.** SUBCONTRACTOR shall maintain Business Auto Liability with minimum limits of \$1,000,000 per occurrence combined single limit for bodily injury and property damage liability. Coverage shall include all Owned Autos, Hired Autos, and Non-owned Auto liability. If SUBCONTRACTOR does not have any Owned or Specifically Insured Autos, then SUBCONTRACTOR shall maintain only the Hired-Auto and Non-owned Auto liability coverage under a separate policy or endorsed to the Commercial General Liability policy.

C. **Worker Compensation.** SUBCONTRACTOR shall maintain Worker's Compensation & Employers Liability applying to all employees for statutory limits in compliance with Florida Statue Chapter 440 and applicable Federal Laws. Coverage must include Employers Liability with minimum limits of \$100,000 Each Accident, \$500,000 Disease-Policy Limit and \$100,000 Disease-Each Employee.

D. Other Insurance Conditions. All insurance must be acceptable to and approved by CONTRACTOR as to types of coverage, forms, and acceptability of the insurers, who must be authorized and licensed to do business under the insurance laws of the State of Florida. So long as not prohibited pursuant to applicable law, SUBCONTRACTOR shall cause all insurance coverages required hereunder to name CONTRACTOR and CITY as additional insureds. The requirements contained herein as to types and limits, as well as CONTRACTOR'S approval of insurance coverage to be maintained by SUBCONTRACTOR are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by SUBCONTRACTOR under this Agreement. SUBCONTRACTOR shall deliver to CONTRACTOR Certificates of Insurance, evidencing that such policies are in full force and effect prior to the Commencement Date hereof and shall also deliver evidence of renewals of same throughout the Term of this Agreement prior to lapse. Furthermore, said Certificates of Insurance shall unequivocally provide thirty (30) days written notice to CONTRACTOR prior to any adverse change, cancellation, or non-renewal of coverage thereunder. The CONTRACTOR reserves the right to require from SUBCONTRACTOR such other insurance coverages it deems reasonably necessary hereunder. SUBCONTRACTOR shall also require any subcontractors that it hires or retains to perform any of the services described herein to comply with the same insurance requirements applicable to SUBCONTRACTOR described above.

19. Indemnification. The SUBCONTRACTOR shall indemnify and save harmless and defend the CONTRACTOR and the City of Hollywood, their agents, servants, officers, directors, shareholders and employees from and against any and all claims, liability, losses, and/or cause of action which may arise from any act or omission of the SUBCONTRACTOR, its agents, servants, or employees in the performance of services under this Agreement. These provisions shall survive the expiration or earlier termination of this Agreement. Nothing in this Agreement shall be construed to affect in any way the City's rights, privileges, and immunities as set forth in Section 768.28, Florida Statutes.

20. Independent Contractor Relationship. The SUBCONTRACTOR is, and shall be, in the performance of all work services and activities under this Contract, and independent contractor, and not an employee, agent, or servant of the CONTRACTOR. All persons engaged in any work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the SUBCONTRACTOR'S supervision and control. The SUBCONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the SUBCONTRACTOR'S relationship and the relationship of its employees to the CONTRACTOR shall be that of an Independent Contractor and not as employees or agents of the CONTRACTOR. The SUBCONTRACTOR does not have the power or authority to bind the CONTRACTOR in any promise, agreement, contract or representation unless specifically provided for in this agreement.

21. Equipment. New capital equipment purchased by SUBCONTRACTOR for use at the CLUB may, at the option of the CITY, be purchased by the CITY upon termination of this Agreement under the following terms: SUBCONTRACTOR must provide to either the CONTRACTOR or the CITY with a copy of the original invoice, along with proof of payment therefore. The purchase price for the equipment will be the undepreciated book value of said equipment, and such equipment will be depreciated at 20% for the first year of use and 14.3% for each year thereafter.

22. Emergency Operations. The CITY shall be permitted to continue to use of the CLUB facility as an Emergency Operation facility. To the extent SUBCONTRACTOR is able to provide food and beverage service during such periods, SUBCONTRACTOR will offer emergency food and beverage support to CITY staff.

23. Additional Consideration. SUBCONTRACTOR agrees to grant a fifty percent (50%) discount on lunch menu prices to CONTRACTOR's employees and free lunches to department heads and managers of CONTRACTOR. Lunch discount is intended as a benefit for CONTRACTOR employees and managers who are at work and who are either eating in the restaurant or on the property of the CLUB, while at work. In addition, CONTRACTOR's employees and managers will receive a reasonable amount of free fountain soda and coffee to be determined by the SUBCONTRACTOR.



24. **Amendment.** Neither this Agreement nor any term or provision hereof may be altered or amended in any manner except by an instrument in writing signed by the party against whom the enforcement of any such change is sought.

25. **Assignment.** This Agreement may not be assigned in whole or in part by any party hereto without the prior written consent of all parties, which consent may be arbitrarily withheld by any party for any reason whatsoever.

26. **Attorneys' Fees.** If there is a default in this Agreement and it is placed in the hands of an attorney for enforcement, whether or not a complaint is filed, the prevailing party shall be entitled to recover from the non-prevailing party all costs, charges and expenses of enforcement, including but not limited to, attorneys' fees incurred prior to institution of litigation or in litigation, including trial and appellate review and in arbitration, bankruptcy or other administrative and judicial proceeding.

27. **Counterparts.** This Agreement may be signed in counterparts with the same effect as if the signature on each such counterpart were on the same instrument. Each of the counterparts, when signed, shall be deemed to be an original, and all of the signed counterparts together shall be deemed to be one and the same instrument.

28. **Exhibits.** The Exhibits attached hereto or referred to herein are a material part of this Agreement as if set forth in full herein. In the event any Exhibit is not attached hereto at the time of execution of this Agreement, shall attach such Exhibit as soon as practicable following the date of execution of this Agreement.

29. **Facsimile.** This Agreement may be transmitted between the parties by facsimile machine. The parties intend that faxed signatures constitute original signatures and a faxed Agreement containing the signatures (original or faxed) of all parties is binding on the parties.

30. **Governing Law and Venue.** This Agreement is to be construed under and governed by the laws of the State of Florida and venue for the enforcement of this Agreement shall be solely and exclusively in Broward County, Florida.

31. **Integration.** This Agreement supersedes in all respects all prior and contemporaneous oral and written negotiations, understandings and agreements between the parties with respect to the subject matter hereof. All of said prior and contemporaneous negotiations, understandings and agreements are merged herein and superseded hereby and this Agreement sets forth the entire understanding between the parties.

32. **Severability.** If any term of this Agreement is illegal or unenforceable at law or in equity, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby. Any illegal or unenforceable term shall be deemed to be void and of no force and effect only to the minimum extent necessary to bring such term within the provisions of any applicable law or laws and such term, as so modified, and the balance of this Agreement shall then be fully enforceable.

33. **Waiver.** Unless otherwise specifically agreed to in writing to the contrary: (i) the failure of either party at any time to require performance by the other of any provision of this Agreement shall not affect such party's right thereafter to enforce the same, (ii) no waiver by either party of any default by the other shall be taken or held to be a waiver by such party of any other preceding or subsequent default, and (iii) no extension of time granted by either party for the performance of any obligation or act by the other party shall be deemed to be an extension of time for the performance of any other obligation or act hereunder.

34. **Notice.** All notices required in this Agreement shall be sent by certified mail, return receipt requested, and if sent to the CONTRACTOR'S representative, shall be mailed to:

Sharon Painter, CEO  
JCD Golf of Florida, Inc.  
1300 Park of Commerce, Suite 272  
Delray Beach, Florida 33445

And if sent to the SUBCONTRACTOR shall be mailed to:

Eugenia and Vladan Ilic  
Nikki's on the Green, Inc.  
4210 NE 14<sup>th</sup> Avenue, Unit #307  
Halladale, FL 33009

IN WITNESS WHEREOF the parties, by and through their duly authorized agents, have hereunto set their hands and seals on the date indicated below.

CONTRACTOR:

SUBCONTRACTOR:

JCD Golf of Florida, Inc., a Florida  
corporation

Nikki's on the Green, Inc., a Florida corporation

By:

Sharon Painter

Date:

August 10, 2011

By:

Eugenia Ilic

Dated:

August 10, 2011