FOOD SERVICE AGREEMENT

FOR THE PERIOD JANUARY 1, 2013 THROUGH DECEMBER 31, 2027

BETWEEN

KEAN UNIVERSITY ("UNIVERSITY")

AND

GOURMET DINING SERVICES ("CONTRACTOR")

FOOD SERVICE AGREEMENT

THIS AGREEMENT made the 17th day of October, 2011, by and between Kean University, a public institution of higher education in the State of New Jersey, having its principal address at 1000 Morris Avenue, Union, New Jersey 07083 ("University") and Gourmet Dining LLC, a New Jersey Limited Liability Company, having its principal address at 285 Madison Avenue, Madison, NJ 07940 ("Contractor").

WHEREAS, the operation of the University requires it to maintain a food services program for its students, faculty, staff and visitors on the University's campuses; and

WHEREAS, the University awarded a contract to the Contractor for campus food service management and operations on September 17, 2007; and

WHEREAS, the contract with the Contractor will expire on December 12, 2012; and

WHEREAS, as a result of the Contractor's overall success with the operation of the University's food service program, the University's Board of Trustees authorized on May 23, 2011, an extension of the current contract for an additional three (3), five (5) year terms; and

WHEREAS, the University and Contractor desire to express the terms, conditions, responsibilities and understandings between the University and Contractor for the contract extension of the Contractor's food service management and operations contract.

NOW THEREFORE in consideration of the mutual promises hereinafter contained, the Contractor and University agree as follows:

1. **CONTRACTOR RESPONSIBILITIES**. The Contractor shall be required to assume sole responsibility for all work to be completed as required by this Agreement.

2. **SCOPE OF SERVICES**. The Contractor, for and in consideration of the concession to provide food services and management, agrees to do and perform all work and labor required to furnish and deliver all goods, materials and/or services in accordance with Exhibit "A" and this Agreement dated October 17, 2011.

3. **CONTRACT DOCUMENTS**. The following documents are annexed hereto, incorporated herein and made a part of this Agreement:

Exhibit "A" - Kean University Request for Proposal for Food Service Management and Operations Contract dated March 28, 2007 (including all addenda); and

Exhibit "B" – Contractor's Financial Proposal Form; and

Exhibit "C" - Current Standard Hours of Operation.

In the event of an inconsistency between the terms of this Agreement and the Contractor's Financial Proposal Form, the terms of this Agreement shall govern. In the event of an inconsistency between the terms of this Agreement and the Request for Proposal, the terms of this Agreement shall govern. In the event of an inconsistency between the terms of the Request for Proposal and the Contractor's Financial Proposal Form, the terms of the Financial Proposal Form shall govern.

4. **CONTRACTOR EMPLOYEES.** It is understood and agreed that the Contractor is an independent contractor and not an employee of the University, nor are the employees of the Contractor to be considered employees of the University.

5. **TERM OF AGREEMENT.** Services shall be provided under this Agreement during the period from January 1, 2013 through December 31, 2027. The term of this Agreement is for three (3) consecutive five (5) year terms. The first term begins on January 1, 2013, the second term begins on January 1, 2018 and the third term begins on January 1, 2023. The second and third terms shall begin as stated, provided the consent of both parties is obtained prior to its term. Should the University or Contractor decide not to continue with this Agreement after the first and second five (5) year terms, notice will be given to either party no later than ninety (90) days prior to the termination date of the previous term and if such notice is not given within this time frame, then the parties will have been deemed to have consented to the next term. Throughout the terms of this Agreement, all the original contract terms shall remain in effect except that the performance and payment bond is reduced to the sum of $500,000.

6. **LICENSES AND PERMITS.** The Contractor must meet all applicable state and federal requirements for operating and doing business in the State of New Jersey including, but not limited to, maintaining compliance with Affirmative Action laws, as per provisions of Chapter 127, Public Laws of 1975, and prevailing wage rates as per provisions of Chapter 150 of the Laws of 1963 as amended by Chapter 64 of the laws of 1974, as determined by the Department of Labor & Industry.

7. **INSURANCE.** The Contractor shall assume all responsibility for its actions and those of anyone else working for it while engaged in any activity connected with this Agreement. The Contractor shall procure and maintain, at its sole cost and expense, during the entire period of this Agreement, the types of insurance specified herein. All insurance shall be procured from reputable insurance carriers authorized to do business in the State of New Jersey which maintain an A.M. Best rating of A- (VII) or better. In no event shall work be performed until the required evidence of insurance has been furnished. The University reserves the right to require the Contractor to furnish certified copies of the original policies of all insurance required under this Agreement any time upon ten (10) days prior written notice to the Contractor. If the Contractor fails to obtain or maintain the required insurance, the University shall have the right to treat such failure as a material breach of contract and to exercise all appropriate rights and remedies. The Contractor is responsible for renewing all types of insurance specified in this Agreement before the expiration date of any policy required hereunder. The insurance shall provide for at least thirty (30) days prior written notice to be given to the University in the event coverage is materially changed, not renewed, reduced or canceled. The University, State of New Jersey and the New Jersey Educational Facilities Authority shall be named as additional insureds on all

policies required hereunder, except the Workers' Compensation and Employer's Liability. All liability policies shall provide the "occurrence" type of coverage. Evidence of current insurance coverage shall be provided in the form of a certificate which shall be submitted to the University upon execution of this Agreement and no later than ten (10) days prior to January 1 of each and every year of this Agreement. The certificate shall expressly name Kean University, the State of New Jersey and the New Jersey Educational Facilities Authority as additional insureds. A Certificate of Insurance for Workers Compensation, together with a properly executed endorsement for cancellation notice, shall also be furnished.

The Contractor shall provide the following types of insurance coverage:

A. Worker's Compensation Insurance as required by the laws of the State of New Jersey and applicable federal law to protect the employees of the Contractor and any subcontractor who will be engaged in the performance of this Agreement. This insurance shall include Employers' Liability coverage with a minimum limit of liability of one million dollars ($1,000,000) for personal injury, each occurrence; a minimum limit of liability of one million dollars ($1,000,000) for disease, each employee; and, a minimum limit of liability of one million dollars ($1,000,000) for disease, aggregate limit.

B. Commercial General Liability policy as broad as the standard coverage form currently in use in the State of New Jersey which shall not be circumscribed by any endorsements limiting the scope of coverage. The policy shall include an endorsement (broad form) for contractual liability covering, but not limited to, the liability assumed under the indemnification provisions of this Agreement. Coverage for bodily injury and property damage claims arising out of the acts of the Contractor and any subcontractors shall be included. Kean University, the State of New Jersey and the New Jersey Educational Facilities Authority shall be named as additional insureds. Limits of liability shall be a minimum of one million dollars ($1,000,000) per occurrence for bodily injury liability; a minimum of one million dollars ($1,000,000) per occurrence for property damage; a minimum limit of two million dollars ($2,000,000) product/completed operations aggregate; and, liquor liability coverage with minimum limits of one million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) in the aggregate. A "per location endorsement" shall be included, so that the general aggregate limit applies separately to the location that is the subject of this Agreement.

C. Comprehensive automobile policy covering owned, non-owned and hired vehicles with minimum limits of one million dollars ($1,000,000) per person; one million dollars ($1,000,000) per occurrence for bodily injury liability and one million dollars ($1,000,000) per occurrence for property damage liability. The policy shall include Kean University, the State of New Jersey and the New Jersey Educational Facilities Authority as additional insureds.

D. Excess liability, umbrella insurance form, applying excess over the primary commercial general liability, comprehensive automobile liability and employers' liability insurance. The minimum limits of excess liability insurance shall be five million dollars ($5,000,000) per occurrence; five million dollars ($5,000,000) general aggregate; and, five million dollars ($5,000,000) products/completed operations.

E. Property Insurance shall be maintained by the Contractor to keep its property insured against loss or damage by fire, explosion or other cause normally covered by standard broad form property insurance. The coverage shall also insure against business interruption and extra expense losses. The Contractor agrees to waive its rights and the rights of its subsidiaries and affiliates, to recover from Kean University, the State of New Jersey and/or the New Jersey Educational Facilities Authority for damages intended to be covered by a standard broad form property insurance policy including business interruption and extra expense coverage.

Each policy of insurance shall contain an endorsement as follows: "It is understood and agreed that the Contractor's Insurance Company shall notify the University, in writing, thirty (30) days in advance of the effective date of any material change, non-renewal, reduction or cancellation of this policy."

All required insurance coverage must be in effect not later than 12:01 a.m. at the start of the Agreement and remain in effect for a minimum of 90 days following termination or expiration of the Agreement.

8. **PERFORMANCE SECURITY.** Upon the execution of this Agreement, the Contractor shall provide Kean with a performance and payment bond in the amount of Five Hundred Thousand Dollars ($500,000.00). The performance security shall consist of a certified or cashier's check drawn to the order of the University, or an individual or annual performance bond issued by an insurance or surety company authorized to do business in the State of New Jersey. The performance bond shall be effective as of January 1, 2013 and guarantee the Contractor's performance of this Agreement. In the event a claim is made against the performance bond, the Contractor understands that its liability for any default will not be reduced by the performance bond. Nothing contained in this section shall diminish the obligations or responsibilities of the insurance or surety company issuing the performance bond provided for herein. Further, Contractor will ensure that the insurance or surety company issuing the performance bond consents to such provisions set forth in this section and Section 5 above.

9. **NOTICES AND REQUIRED DOCUMENTATION.** All notices required or permitted under this Agreement shall be in writing and shall be deemed delivered when delivered in person or deposited in the United States mail, postage prepaid, addressed as follows:

As to Contractor:

Ben Aiello
President

Gourmet Dining LLC
285 Madison Avenue
Madison, NJ 07940

As to Kean University:

Philip Connelly
Executive Vice President for Operations
Kean University
1000 Morris Avenue
Union, NJ 07083

10. **EVALUATION OF AGREEMENT SERVICES**. During the term of this Agreement, the University President (the "President") or designated representative, which shall be limited to either the Executive Vice President of Operations or Director of Business Services or equivalent position, shall have the right to form a Food Service Committee to appraise and evaluate the services carried out under this Agreement. The Contractor or its representative shall be required to attend Food Service Committee meetings. The President or the President's authorized representative shall have the power to direct the activities of the Contractor. The Contractor or the Contractor's authorized representative must meet as requested by the University. The President or the President's authorized representative shall discuss with the Contractor the food services provided pursuant to this Agreement, including, but not limited to, types of food, variety and quality, sanitation and maintenance of property. The Contractor shall be responsible to maintain maximum efficiency and good public relations in the operation of services awarded pursuant to this Agreement. The President or the President's authorized representative shall have the right to make reasonable changes with regards to food service and facilities, and the Contractor agrees to comply with these changes. All authorized representatives of the University shall have the full right to access of all areas of Contractor operations at any and all times.

11. **CONTRACT TRANSITION PERIOD**. In the event that the Agreement is terminated either by contract expiration or by early termination by the University, it shall be incumbent upon the Contractor to continue all services hereunder until new services can become completely operational. At no time shall this continuation of services extend more than ninety (90) days beyond the expiration date of the existing Agreement, unless otherwise agreed upon by the parties in writing.

12. **SUSPENSION OF WORK**. The University may at any time for valid reason direct the Contractor to suspend work under this Agreement for a specific period of time. Such order shall be given by at least ten (10) days notice in writing which shall specify the period during which work shall be stopped. The Contractor shall be paid up until the stop order. The Contractor, unless terminated, shall resume work upon the date specified in the stop work order, or upon such other date as the University may thereafter specify in writing. The period during which work shall have been stopped shall be deemed added to the Contractor's contractual term.

13. **DISCRETIONARY EVENTS OF DEFAULT.** Each of the following shall be an event of default under the Agreement, which may, at the sole discretion of the University, constitute a basis to terminate the Agreement if the Contractor fails to cure the default pursuant to Section 15 herein:

A. failure by Contractor to comply with any provision of this Agreement, including, but not limited to, Exhibit "A" and Exhibit "B"; or

B. failure by Contractor to meet its financial obligations to the University and/or to pay suppliers in accordance with its contracts with those suppliers; or

C. falseness or inaccuracy of any warranty or representation of Contractor contained in the Agreement or in any other document submitted to the University by the Contractor;

14. **MANDATORY EVENTS OF DEFAULT.** Each of the following shall be an event of default under the Agreement which may not be cured by the Contractor and will be mandatory grounds for termination of the Agreement:

A. any misappropriation of any monies provided under this Agreement or failure to notify the University upon discovery of any misappropriation; or

B. a violation of federal, state or local law by the Contractor or Contractor's senior management, directly or indirectly relating to the provision of services under the Agreement, or which threatens in any way, in the sole judgment of the University, the performance of the Agreement in accordance with its terms; or

C. the declaration of bankruptcy by the Contractor.

15. **TERMINATION FOR DEFAULT.** The University shall, by written notice of default to the Contractor, terminate the whole or any part of this Agreement if the Contractor commits any act identified in the "Mandatory Events of Default" clause contained herein. In addition, the University may, by written notice of default to the Contractor, terminate the whole or any part of this Agreement if the Contractor commits any act identified in the "Discretionary Events of Default" clause contained herein and if the Contractor does not cure such act of default within a period of ten (10) days (or such longer period as the University may authorize in writing) after receipt of notice from the University specifying such act.

If the Agreement is terminated in whole or in part for default, the University may procure, upon such terms and in such manner as the University may deem appropriate, items and/or services similar to those so terminated.

The rights and remedies of the University provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

Any monies due the Contractor prior to termination shall be paid to Contractor in accordance with the terms of this Agreement.

16. **TERMINATION FOR CONVENIENCE.** In addition to the University's rights to terminate this Agreement for mandatory or discretionary events of default, the Contractor's performance may be terminated by the University in accordance with this clause in whole, or in part, whenever the University determines that such termination is in the best interest of the University. Any such termination shall be effected upon sixty (60) days prior written notice delivered to the Contractor specifying the extent to which performance of work is terminated, and the date upon which such termination becomes effective.

After receipt of a notice of termination, and except as otherwise directed by the University, the Contractor shall: a) stop work under the Agreement on the date and to the extent specified in the notice of termination; b) take no further action except as otherwise may be directed by the University; and, c) terminate all orders and/or subcontracts to the extent that they relate to the performance of work terminated by the notice of termination.

Any monies due the Contractor prior to termination shall be paid to Contractor in accordance with the terms of this Agreement.

This provision shall only be effective after the expiration of the first and second (5) year terms.

17. **DAMAGES FOR NON-PERFORMANCE.** In the event the Contractor's performance is terminated by the University for reasons of default described herein, the University shall authorize the Agreement services to be performed by any available means. The difference between the actual cost paid for the replacement services and the bid of the defaulting Contractor shall be deducted from any monies due hereunder. If the cost of replacement service is greater than any monies due Contractor under this Agreement, the Contractor shall pay to the University the difference between replacement cost and the amount deducted from any monies due to the Contractor.

18. **INDEMNIFICATION.** The Contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend and save harmless Kean University, the State of New Jersey and their trustees, directors, officers, agents, servants and employees, from and against any and all claims, demands, suits, actions, recoveries, judgments and costs, and expenses in connection therewith on account of the loss of life, illness, injury, damage to or loss of property, of any person or persons, whatsoever, which shall arise from or result directly or indirectly from: (1) the work, service or materials provided under this Agreement by the Contractor; or (2) any failure to perform the Contractor's obligations under this Agreement. The Contractor's obligations under this indemnification clause or any improper or deficient performance of the Contractor's obligations are not limited by, but are in addition to, the insurance obligations contained in this Agreement.

Further, the provisions of this indemnification clause shall in no way limit the obligations assumed by the Contractor under this Agreement, nor shall they be construed to neither relieve the Contractor from any liability nor preclude the University from taking any other actions available to it under any other provisions of this Agreement or at law. The indemnification obligations hereunder shall survive the completion or termination of this Agreement.

19. **ENVIRONMENTAL INDEMNIFICATION CLAUSE**. The Contractor shall conduct all activities in compliance with all applicable Federal, State and local laws, rules and regulations designed to prevent or control the discharge of substances into the land, water and air and to protect individual health and safety. The Contractor shall indemnify, defend and save harmless Kean University, the State of New Jersey and their trustees, directors, officers, agents, servants and employees, from and against any and all claims, demands, suits, actions, recoveries, judgments and costs, and expenses in connection therewith on account of the loss of life, illness, injury, damage to or loss of property, of any person or persons, whatsoever, which shall arise from or result directly or indirectly from or alleged to have arisen from its violation of any such environmental, health or safety laws, rules or regulations whenever such suits, actions, claims or proceedings shall be commenced, or whenever such costs are accrued, that results from the Contractor's operations. It is understood that this indemnification does not extend to any violations, if any, at the University's campus or facilities existing prior to the Contractor's activities. The Contractor shall take reasonable and necessary precautions to prevent the discharge of hazardous substances, including asbestos and petroleum products, onto University property or into the environment, including the air. Failure to comply will be considered grounds for default, and the University may cancel the Agreement in the "Termination for Default" clause contained herein. The indemnification obligations hereunder shall survive the completion or termination of this Agreement.

20. **PRICING**. The Contractor agrees that the prices set forth in its Financial Proposal Form attached as Exhibit "B" are firm for the first year of the Agreement and thereafter may be changed only with the prior written approval of the University.

21. **PAYMENT OF COMPENSATION/FINANCIAL PROPOSAL FORM**. All compensation paid by the University to the Contractor shall be in accordance with the Contractor's Financial Proposal Form contained in Exhibit "B" and shall not be modified during the term of the Agreement. The Contractor's Financial Proposal Form is based on providing services outlined in this Agreement and complies with all federal and state laws, particularly as they relate to maintaining the tax exempt bond status of the University. Since the facilities to be occupied by the Contractor are financed with the proceeds of tax-exempt bonds, this Agreement shall comply with the requirements of Rev. Proc. 97-13.

22. **INSTALLATION AND MAINTENANCE OF POINT-OF SALE EQUIPMENT**. The University agrees to maintain point-of-sale terminals at all food service locations at the time of the commencement of this Agreement. The placement and location of such terminals shall be determined by the University.

23. **HOURS OF OPERATION**. The standard operating hours for applicable University food service venues shall be determined by mutual agreement between the Contractor and the University. The current standard operating hours are attached herein as Exhibit "C" for illustrative purposes.

24. **MEETING.** The Contractor or his authorized representatives shall meet regularly with the University Vice President for Student Affairs, Director of Business Services and/or the Food Service Committee to discuss the food services, including but not limited to, types of food and food quality, and cooperate at all times to maintain maximum efficiency and good public relations in the operation of the services.

25. **USE OF DINING AREAS.** All authorized representatives of the University shall have the full right of access to all of said premises at any and all times. It is further understood that the University reserves the right to use the dining areas from time to time for such purposes as registration of students, classes for students, conferences, testing, dances, or other uses not related to food service. Appropriate set-up, clean-up and any loss or damage associated with such use shall be undertaken and borne by the University and shall not be the responsibility of the Contractor.

26. **CATERED FUNCTIONS AND EVENTS.** The Contractor shall provide a full range of catering services for University events, when requested, on any day or evening during the term of this Agreement at any location on campus. The Contractor shall not book any catered event in a public scheduled space or any other campus space without prior authorization from the Director of the University Center. Among the services required, but not limited to, are coffee service, continental breakfasts, full breakfasts (served and buffet style), hot and cold lunches (served and buffet style), beverage and snack service, buffet dinners, served dinners, special theme dinners, later night suppers, dessert hours, and full scale gala events.

27. **AUDIT, INSPECTION AND RECORD RETENTION.** The Contractor shall maintain accounting records and all other records pertaining to the Contractor's performance of this Agreement and make the records available to the University during business hours throughout the term of the Agreement and for seven (7) full years after the completion of the Agreement.

The Contractor shall further permit authorized representatives of the University and the State of New Jersey to inspect and photocopy all project work, materials, payroll and all data and records of the Contractor relating to its performance and its subcontracts under this Agreement from the date of the Agreement and for seven (7) years after the completion of the Agreement.

The periods of access and examination described above, for records which relate to a) appeals under the "Disputes" clause of this Agreement, b) litigation or the settlement of claims arising out of the performance of this Agreement, or c) costs and expenses of this Agreement as to which exception has been taken by the University or the State of New Jersey or any of their duly authorized representatives, shall continue until such appeals, litigation, claims or exceptions have been disposed of:

28. **STANDARDS PROHIBITING CONFLICTS OF INTEREST.** The following prohibitions on vendor activities shall apply to all contracts or purchase agreements made with the State of New Jersey, pursuant to Executive Order No.189 (1988):

A. No vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b. and e., in the Department of the Treasury or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13d-13i., of any such officer or employee, or partnership, firm or corporation, with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13d-13g.

B. The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any vendor shall be reported in writing forthwith by the vendor to the Attorney General and the Executive Commission on Ethical Standards.

C. No vendor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any State officer or employee or special State officer or employee having any duties or responsibilities thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52:13d-13g.

Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actual or appearance of a conflict of interest.

D. No vendor shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his official capacity in any manner.

E. No vendor shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the vendor or any other person.

F. The provisions cited above in paragraph 28a. through 28e. shall not be construed to prohibit a State officer or employee or Special State officer or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate under paragraph 28c.

29. **EEO/AFFIRMATIVE ACTION.** The Contractor agrees that it does not discriminate in the hiring or promotion of any minorities, as designated by the Equal Employment Opportunity Commission of the United States of America, or the Department of Civil Rights of the State of New Jersey, and that it does not discriminate against any person or persons on the basis of race, religion, age, color, sex, national origin, sexual orientation or handicap. The Contractor further agrees to abide by all anti-discrimination laws, including but not limited to, those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A. 10:5-1 and N.J.S.A. 10:5-31 through 10:5-38, and all rules and regulations issued there under.

In addition, the Contractor agrees to complete a Mandatory Language for Professional Agreements form and a State of New Jersey Affirmative Action Employee Information Report (AA-302 form). However, if Contractor maintains a current Letter of Federal Approval, or a current Certificate of Employee Information Report Approval as issued by the New Jersey Department of Treasury, it may be submitted in lieu of the AA-302 form indicated above.

30. **NEW JERSEY BUSINESS REGISTRATION CERTIFICATE.** The Contractor agrees that it will comply with the provisions of P.L. 2004, c. 57, which requires all businesses having been awarded a public contract by a State college or university to register with the New Jersey Department of Treasury. The Contractor shall be required to provide Kean with proof of business registration in accordance with P.L. 2004, c. 57, upon the execution of this Agreement.

31. **TAXES AND APPLICABLE LAWS.** The Contractor agrees to pay any taxes resulting from this Agreement. The Contractor further agrees to perform the services in this Agreement in compliance with all applicable federal, state and local laws, ordinances, rules, regulations and orders.

32. **AVAILABILITY OF FUNDS.** The University's obligation hereunder is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the University for payment of any money shall arise unless and until funds are made available each fiscal year to the University by the Legislature.

33. **DISPUTES.** Any dispute arising during the course of this Agreement which is not resolved by agreement of the parties shall be decided in writing by the authorized representative of the University. This decision shall be final and conclusive unless within ten (10) calendar days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the University's Vice President of Administration and Finance. In connection with any such appeal, the Contractor shall be offered an opportunity to be heard any present any information in support of its position. The decision by the University's Vice President of Administration and Finance shall be binding upon the Contractor and the Contractor shall abide by the decision. Any action by the Contractor resulting from the University's final administrative decision shall be governed by the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.) as identified in the Governing Law clause herein.

34. **GOVERNING LAW.** This Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey, including without limitation, the New

Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.). The parties agree that pursuant to the New Jersey Contractual Liability Act, venue and jurisdiction regarding any matter pertaining to this Agreement shall be in the Superior Court of New Jersey, Law Division, Union County, and consent to same. The parties waive any claim to a venue or jurisdiction different from the foregoing.

35. **ASSIGNMENT.** This Agreement, or any part thereof, shall not be subcontracted or assigned by the Contractor, without the specific prior written consent of the University. Any attempted assignment without such prior written permission shall be null and void.

36. **BINDING EFFECT**. This Agreement is to be binding upon the University, its successor or successors, and upon the Contractor, its successor or successors.

37. **ENTIRE AGREEMENT.** This Agreement is the entire understanding and agreement between the University and the Contractor relating to the subject matter herein, and supersedes any and all such other agreements and understandings relating to the subject matter herein.

38. **AMENDMENT**. This Agreement may be amended only by a writing executed by both parties.

39. **SEVERABILITY.** If any material provision herein is held invalid or unenforceable, this Agreement shall be terminated unless the parties agree to a new provision or terms within thirty (30) days.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed effective the date set forth above. The representative signing on behalf of the Contractor shall have the authority to contractually bind the Contractor.

	CONTRACTOR
ATTEST:	GOURMET DINING LLC
______________________	By: ______________________ Ben Aiello President
ATTEST:	KEAN UNIVERSITY
______________________ By:	By: ______________________ Philip Connelly Vice President for Operations

EXHIBIT "A"

KEAN UNIVERSITY REQUEST FOR PROPOSAL FOR FOOD SERVICE MANAGEMENT AND OPERATIONS CONTRACT DATED MARCH 28, 2007

EXHIBIT "B"

CONTRACTOR'S FINANCIAL PROPOSAL FORM

Attachment A
Food Service Management and Operations Contract
Kean University

FINANCIAL PROPOSAL FORM

Gourmet Dining LLC
(Company Name)

Kean University will pay a fixed dollar amount to for each meal plan purchased and Gourmet Dining will pay commission on a percentage of the gross revenue from cash sales and catering.

Fall 2012 through Spring 2013

Fixed dollar amount to be paid to the supplier for each meal plan purchased:

KB 80	$1,003.14
KB 90	$1,003.14
MK 100	$1,474.14
MK 200	$1,577.14
MK 300	$1,680.14
MK 400	$1,783.14

Gourmet will be pay 8% commission on gross revenue from cash sales and catering.

Fall 2013 through Spring 2014

Fixed dollar amount to be paid to the supplier for each meal plan purchased:

KB 80	$1,033.23
KB 90	$1,033.23
MK 100	$1,518.36
MK 200	$1,624.45
MK 300	$1,730.54
MK 400	$1,836.63

Gourmet will be pay 8% commission on gross revenue from cash sales and catering.

Fall 2014 through Spring 2015

Fixed dollar amount to be paid to the supplier for each meal plan purchased:

KB 80	$1,064.23
KB 90	$1,064.23
MK 100	$1,563.91
MK 200	$1,673.18
MK 300	$1,782.46
MK 400	$1,891.73

Gourmet will be pay 8% commission on gross revenue from cash sales and catering.

Fall 2015 through Spring 2016

Fixed dollar amount to be paid to the supplier for each meal plan purchased:

KB 80	$1,106.80
KB 90	$1,106.80
MK 100	$1,626.47
MK 200	$1,740.11
MK 300	$1,853.75
MK 400	$1,967.40

Gourmet will be pay 8% commission on gross revenue from cash sales and catering.

Fall 2016 through Spring 2017

Fixed dollar amount to be paid to the supplier for each meal plan purchased:

KB 80	$1,151.07
KB 90	$1,151.07
MK 100	$1,691.53
MK 200	$1,809.72
MK 300	$1,927.90
MK 400	$2,046.09

Gourmet will be pay 8% commission on gross revenue from cash sales and catering.

For years 6-15 increase will be based on CPI for food away from home in the NY/Metropolitan area.

EXHIBIT "C"

CURRENT STANDARD OPERATING HOURS

UNIVERSITY CENTER DINING HALL
OPERATING HOURS

MONDAY-THURSDAY :	7:30AM – 7:00PM
FRIIDAY	7:30AM – 3:00PM
SATURDAY	8:00AM - 3:00PM
SUNDAY	CLOSED

COUGARS DEN
OPERATING HOURS

MONDAY – THURSDAY:	11:00AM – 12:00AM
FRIDAY	11:00AM - 9:00AM
SATURDAY-SUNDAY	CLOSED

EXHIBIT "D"

VENDOR'S CODE OF ETHICS AND BUSINESS ETHICS GUIDE; CERTIFICATION OF CONTRACTOR

Code of Ethics

Business Ethics Guide

This Guide is designed to help private sector vendors and other entities familiarize themselves with some key parts of the New Jersey ethics standards as they apply to NJ State Employees. The Guide sets out basic principles to guide all employees, officers, and directors of companies transacting business with the State of New Jersey

To view the State of NJ Business Ethics Guide Click Here

GRATUITIES TO STATE EMPLOYEES PROHIBITED

State statute (N.J.S.A. 52:34-19) stipulates that absolutely no fees, compensation, commissions, gifts, favors, or entertainment of any kind may be offered to or accepted by any State employee in the Department of the Treasury or in any agency connected directly or indirectly with the purchase or acquisition of commodities or services.

This State statute is intended to prevent a conflict of interest or the appearance of a conflict. The consequences of violation of the statute can be severe. Disciplinary action and/or dismissal may result for the employee, and debarment or suspension from future contract opportunities as well as cancellation of any open contract or purchase order may result for the vendor.

Standards Prohibiting Conflicts of Interest

The following prohibitions on vendor activities applies to all contracts or purchase agreements made with the State of New Jersey.

a. No vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b. and e., in the Department of the Treasury or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i., of any such officer or employee, or any partnership, firm or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g.
b. The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any State vendor shall be reported in writing forthwith by the vendor to the Attorney General and the Executive Commission on Ethical Standards.
c. No vendor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State

officer or employee or special State officer or employee upon finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

d. No vendor shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.
e. No vendor shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, official position to secure unwarranted privileges advantages for the vendor or any other person.
f. The provisions cited above in paragraph a. through e. shall not be construed to prohibit a State officer or employee or special State officer or employee from receiving gifts from vendors under the same terms and conditions as are offered or made available to members of the general public, subject to any guidelines the Executive Commission on Ethical Standards may promulgate under paragraph (c) above.

Business Ethics Guide

A Plain Language Guide to Ethical Business Conduct for Companies Transacting Business with the State of New Jersey, its Institutions, and Agencies (1)

INTRODUCTION AND GUIDING PRINCIPLES

This Plain Language Guide to Ethical Business Conduct ("Guide") covers a wide range of business practices and procedures. It does not cover every issue that may arise, but it does set out basic principles to guide all employees, officers, and directors of companies transacting business with the State of New Jersey. Obeying the law, both in letter and spirit, is the foundation on which a company's ethical standards are built. All company employees, officers, and directors must respect and obey the laws and regulations of the agencies with which they operate. Contracting parties will be required to certify that they have complied with all applicable laws and regulations governing the provision of State services, including the Conflicts of Interest Law, N.J.S.A. 52:13D-12 to -28.

Although the applicable provisions of law are detailed, you will have no difficulty following them, if you follow these simple, guiding principles:

- You may not profit from a conflict of interest on the part of a State employee.
- You may not "wine and dine" State employees.
- You may not pay a State employee anything for the performance of his or her official duties.
- You may not make illegal political contributions.
- You may not profit, directly or indirectly, from the use of any secret or confidential knowledge or data of the State that a State employee has illicitly disclosed.
- You should report any illegal or unethical behavior or any violation of the State's ethics and business codes to the State

Ethics Commission, by calling the anonymous "Hot Line" established for this purpose.

This Guide reflects current Conflicts Law. It should be supplemented appropriately to reflect subsequent legislative changes.

OVERVIEW AND RULES OF CONDUCT

This Guide is designed to help private sector vendors and other entities familiarize themselves with some key parts of the New Jersey ethics standards as they apply to employees of the Executive Branch of State Government. If you do business with the Executive Branch, are regulated or licensed by, receive grants from, or lobby State agencies, or if you are considering hiring current and former State employees, this Guide is for you.

This Guide is not meant to serve as formal advice or as a substitute for legal counsel. It provides general information only and does not have the force and effect of law. It does not replace any actual laws or rules, and it does not address every ethical restriction contained in the laws and rules it summarizes. It does not cover the requirements contained in any particular agency's ethics code. Ethical issues may also be addressed in procurement, personnel, and travel rules, as well as in open meetings, open records, and criminal laws. In addition, members of particular professions (e.g., lawyers and accountants) are subject to their own codes of professional responsibility.

In this Guide, we use the term ***"State employee"*** to refer to State officers and employees and special State officers and employees who are subject to the ethics laws and rules discussed in this Guide. As a practical matter, virtually all employees and appointees in the Executive Branch of New Jersey State Government are "State employees."

GENERAL STANDARDS

As a private sector entity dealing with State agencies, you must not:

- induce or attempt to induce any State employee to violate the New Jersey Conflicts of Interest Law, N.J.S.A. 52:13D-12 to -28, or any code of ethics promulgated thereunder;
- influence, or attempt to influence or cause to be influenced, any State employee in his or her official capacity in any manner which might tend to impair his or her objectivity or independence of judgment;
- cause or influence, or attempt to cause or influence, any State employee to use, or to attempt to use, his or her official position to secure unwarranted privileges or advantages for you or any other person or entity; or
- undertake, directly or indirectly, any private business or commercial or entrepreneurial relationship with, or sell any interest in your business to:
  - a State employee who has any duties or responsibilities in connection with the purchase, acquisition, or sale of any property or services by or to any State agency; or
  - any person, firm, or entity with which that State employee is employed or associated, or in which he or she has an interest.

A State employee may apply to the Commission for a waiver of this particular restriction, and the Commission may grant the waiver if it finds that the relationship does not present a potential, actual, or appearance of a conflict of interest. If you enter into a business relationship that contravenes this rule, you must promptly report it in writing to the Commission.

GIFTS, FAVORS, SERVICES AND OTHER THINGS OF VALUE

Do not pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, honorarium or other thing of value of any kind to:

- any State employee or any member of his or her immediate family (i.e., a spouse, child, parent, or sibling residing in the same household as the employee); or
- any partnership, firm, or corporation with which the State employee is employed or associated, or in which he or she has an interest. Some things of value are obvious, such as money, stock, debt forgiveness, real estate, or automobiles. But less obvious things also have value, including offers of employment, loans, labor, rebates, price discounts, entertainment, or meals.

The effect of this standard is that you must not send holiday gifts, office-warming gifts, tokens of appreciation, or other things of value to State employees or State agencies. In addition, it is improper to invite State employees to meals, parties, sporting events, theatrical performances, and similar social functions.

A State employee can accept a gift from you or contract with you under the same terms and conditions that you offer or make available to members of the general public or to a large class of recipients, provided that the gift or contract does not violate any other Commission guidelines or a particular agency's ethics code. For example, State employees can take advantage of cell phone rate packages offered to "all public employees" and government rates offered by hotel chains. State employees can also accept nonalcoholic beverages and snack items (e.g., coffee, doughnuts, and cookies) at meetings or site visits, but they cannot accept meals.

If any State employee solicits you for a fee, commission, compensation, gift, gratuity, or other thing of value, you are required to report the occurrence promptly, in writing, to the Attorney General and to the Commission.

State employees may accept payment or reimbursement for travel expenses from a private sector entity under very limited circumstances. In each case, the employee must secure prior approval from his or her agency. The rules governing travel expenses, N.J.A.C. 19:61-6.1 et seq., are available at www.nj.gov/lps/ethics/ecesrules.pdf.

EMPLOYMENT OFFERS

- Current State Employees

If you offer a job to a State employee, be aware that job negotiations create a financial interest for that employee. As such, the employee will no longer be able to act in the State's interest concerning your company. Please also note that State employees must secure prior approval for secondary employment. Depending on your relationship with the employee's agency, your employment offer may be disapproved, and the State employee could be screened from taking any official action with respect to your contracts, applications, or matters in the future.

- Former State Employees

After leaving State service, State employees are under a lifetime ban against the use or provision of information not generally available to the public acquired during their State employment. Further, former State employees are prohibited from representing or assisting a person concerning a particular matter if they were substantially and directly involved in that particular matter while in State employment. For more information, see "Post-Employment Restrictions for State Employees," at www.nj.gov/lps/ethics/pempcode.htm.

- Casino-Related Restrictions

The Casino Control Act and the Conflicts of Interest Law contain restrictions on the employment of current State employees, their immediate family members, and former State employees and their immediate family members, by holders of and applicants for casino licenses. However, there are statutory provisions that permit waivers of some of these restrictions by the State Ethics Commission. In addition, there are restrictions on benefits that can be passed to State employees by holders of and applicants for casino licenses. Questions about these restrictions should be addressed to the Commission, at P.O. Box 082, Trenton, New Jersey, 08625-0082, or at ethics@eces.state.nj.us.

PENALTIES

The State Ethics Commission has the authority to impose penalties on private sector entities and individuals, and it can refer such cases to appropriate agencies when a violation is punishable by law. Violations of some of the above-described standards can result in the violator's criminal prosecution, and/or suspension, disqualification, or debarment from doing business with any State agency.

(1) This Guide reflects current Conflicts Law. It should be supplemented appropriately to reflect subsequent legislative changes.

CERTIFICATION BY CONTRACTOR-COMPLIANCE WITH

EXECUTIVE ORDER #36

Pursuant to the requirements of Executive Order # 36, promulgated by the Honorable Governor Richard J. Codey on May 10, 2005, I certify that as the vendor submitting this bid proposal and the vendor being awarded the contract, that ______________________ ____________________________________(Name of Vendor) is in compliance with the Business Ethics Guide set forth on the Division of Purchase and Property website at http://www.state.nj.us/treasury/purchase/ethics_guide.shtml and that _______________ __________________________________(Name of Vendor) shall comply with the Business Ethics Guide during the term of the contract. I certify that to best of my knowledge and belief the foregoing statements by me are true. I am aware that if any of the foregoing statements by me are willfully false, I am subject to punishment.

____
Signature of Authorized Representative

____
Name of Vendor

Dated: ______________________________

AMENDMENT NUMBER ONE TO FOOD SERVICE AGREEMENT

This Amendment Number One dated May 14, 2015 ("Amendment No. 1) to the Food Service Agreement by and between Kean University (the "University") and Gourmet Dining ("Gourmet") dated October 17, 2011 (the "Agreement") The University and Gourmet may be referred to herein collectively as the "Parties".

WHEREAS, the Parties now desire to amend the Agreement;

NOW THEREFORE, the Parties hereby agree to the following:

1. Definitions. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement.

2. Insertion of Section 40. The Agreement is amended to insert the following as Section 40:

40. **INVESTMENT.**

A. Gourmet shall fund an investments in the University's dining service program to fund capital improvements to the University's premises to facilitate the dining service program, consisting of (i) installation of Jersey Mike's Subs location in the University Center, in a total sum not to exceed Two Hundred Fifty Thousand ($250,000) Dollars and (ii) renovations to approximately 5,000 square feet of space within the University Center to improve the dining and seating area as well as the renovation of a convenience store (collectively, the "2015 Investment").

B. The 2015 Investment will be disbursed on a schedule as agreed by Gourmet and the University. The 2015 Investment will be amortized on a straight line basis from August 2015 through December 2027. The amortization of the 2015 Investment will be extended by an additional one (1) year term for each additional one (1) year period during which Gourmet continues to serve as Manager under the Management Subcontract Agreement by and between Kean University Foundation, Inc. and Gourmet dated October 19, 2011, as amended. Notwithstanding the foregoing, in no event shall the 2015 Investment amortization extend beyond 2032. The University shall hold title to items funded by the 2015 Investment. If the Agreement expires or is terminated for any reason prior to the full amortization of the 2015 Investment, the University is liable for and promises to pay to Gourmet the unamortized portion of the Investment immediately upon expiration or termination.

C. $50.00 in Cougar dollars will be added to the meal plans for AY 2016 & 2017.

3. Insertion of Section 41. The Agreement is amended to insert the following as Section 41:

41. **REFRESH / IMPROVEMENT FUND**. Gourmet will allocate One Hundred Thousand ($100,000) Dollars (the "Improvement Fund") for a sign for Ursino, design costs for UC renovation and other expenses incurred to assist in improvement of food service operations. The Improvement Fund will be disbursed on a schedule as agreed by Gourmet and the University. The Improvement Fund will be amortized on a straight line basis from the date of each expenditure through December 2027. The amortization of the Improvement Fund will be extended by an additional one (1) year term for each additional one (1) year period during which Gourmet continues to serve as Manager under the Management Subcontract Agreement by and between Kean University Foundation, Inc. and Gourmet dated October 19, 2011, as amended. Notwithstanding the foregoing, in no event shall the Improvement Fund amortization extend beyond 2032. Gourmet shall be responsible for obtaining all permits and approvals permits necessary in connection with constructing and displaying the sign for Ursino. The University shall hold title to items funded by the Improvement Fund. If the Agreement expires or is terminated for any reason prior to the full amortization of the Improvement Fund, the University is liable for and promises to pay to Gourmet the unamortized portion of the Improvement Fund immediately upon expiration or termination.

4. Confirmation and Integration. Except as expressly amended by this Amendment, the parties hereby confirm and ratify the Agreement in its entirety. The Agreement, as amended hereby, constitutes the entire agreement between the parties and their predecessors pertaining to the subject matter of the Agreement, as so amended, and supersedes all prior and contemporaneous agreements and understandings of the parties and their predecessors in connection therewith.

5. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall constitute an original and all of which together shall constitute but one and the same original document.

6. Headings. The section headings herein are for convenience only and do not define, limit or construe the contents of such sections.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be signed by their duly authorized officers, all done the day and year first above written.

KEAN UNIVERSITY	GOURMET DINING, LLC
By: ____________	By: ____________
Name: Philip Connelly	Name: Michael Frungillo
Title: Executive Vice President for Operations	Title: President
Date: 5/15/15	Date: 6/22/15

AMENDMENT NUMBER TWO TO FOOD SERVICE AGREEMENT

This Amendment Number One effective September 1, 2015 ("Amendment No. 2) to Food Service Agreement is entered into by and between Kean University (the "University") and Gourmet Dining ("Gourmet").

WHEREAS, University and Gourmet are parties to a certain Food Services Agreement dated October 17, 2011 (the "Original Agreement"), as previously amended by Amendment No. 1 dated May 14, 2015 ("Amendment No. 1" and together with the Original Agreement, the "Agreement") The University and Gourmet may be referred to herein collectively as the "Parties."

WHEREAS, the Parties now desire to amend the Agreement;

NOW THEREFORE, the Parties hereby agree to the following:

1. Definitions. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement.

2. Amendment to Section 40. Section 40 is amended to delete such Section in its entirety and replace it with following:

40. **INVESTMENT.**

A. Gourmet shall fund an investment in the University's dining service program to fund capital improvements to the University's premises to facilitate the dining service program, consisting of (i) installation of Jersey Mike's Subs location in the University Center, in a total sum not to exceed Three Hundred Forty-three Thousand ($343,000) Dollars and (ii) renovations to approximately 5,000 square feet of space within the University Center to improve the dining and seating area as well as the renovation of a convenience store in a total sum not to exceed Three Million ($3,000,000) Dollars (collectively, the "Investment").

B. The Investment will be disbursed on a schedule as agreed by Gourmet and the University. The Investment will be amortized on a straight line basis as set forth in the following table:

Disbursement Year	*Description*	*Amount*	*Amortization Period*
2015	Jersey Mike's	$343,000	September 2015 to December 2027
To be determined	University Center dining improvements and C-Store	$3,000,000	From date project begins to generate revenue to December 2027

The University shall hold title to items funded by the Investment. If the Agreement expires or is terminated for any reason prior to the full amortization of the Investment, the University is liable for and promises to pay to Gourmet the unamortized portion of the Investment immediately upon expiration or termination.

C. $50.00 in Cougar dollars will be added to the meal plans for A Y 2016 & 2017.

D. Gourmet will fund an investment up to $200,000 to make cosmetic renovations to Ursino and install a sign on Morris Avenue ("2016 Investment"). The 2016 Investment will be amortized on a straight line basis from August 2016 through September 2022. The University shall hold title to items funded by the Investment. If the Agreement expires or is terminated for any reason prior to the full amortization of the 2016 Investment, the University is liable for and promises to pay to Gourmet the unamortized portion of the 2016 Investment immediately upon expiration or termination.

3. Confirmation and Integration. Except as expressly amended by this Amendment No. 2, the parties hereby confirm and ratify the Agreement in its entirety. The Agreement, as amended, constitutes the entire agreement between the parties and their predecessors pertaining to the subject matter of the Agreement, as so amended, and supersedes all prior and contemporaneous agreements and understandings of the parties and their predecessors in connection therewith.

4. Counterparts. This Amendment No. 2 may be executed in any number of counterparts, each of which shall constitute an original and all of which together shall constitute but one and the same original document.

5. Headings. The section headings herein are for convenience only and do not define, limit or construe the contents of such sections.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be signed by their duly authorized officers, all done the day and year first above written.

KEAN UNIVERSITY	GOURMET DINING, LLC
By:	By:
Name:	Name: Michael Rungillo
Title:	Title: President
Date:	Date: 3/22/16

AMENDMENT NUMBER THREE TO FOOD SERVICE AGREEMENT

This Amendment Number Three to Food Service Agreement effective March 24, 2017, 2017 ("Amendment No. 3") to Food Service Agreement is entered into by and between Kean University (the "University") and Gourmet Dining ("Gourmet").

WHEREAS, University and Gourmet are parties to a certain Food Services Agreement dated October 17, 2011 (the "Original Agreement"), as previously amended by Amendment No. 1 dated May 14, 2015 ("Amendment No. 1") and by Amendment Number Two to Food Service Agreement dated September 1, 2015 ("Amendment No. 2"). The University and Gourmet may be referred to herein collectively as the "Parties;" and

WHEREAS, this Amendment No. 3 will supersede Amendment No. 1 and Amendment No. 2 in their entirety; and

WHEREAS, the Parties now desire to amend the Original Agreement.

NOW THEREFORE, the Parties hereby agree to the following:

1. <u>Definitions</u>. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement.

2. <u>Amendment to Section 5</u>. Section 5 is amended to delete such Section in its entirety and replace it with following:

> 5. Term of Agreement. Services shall be provided under this Agreement during the period from January 1, 2013 through December 31, 2032. The term of this Agreement is for four (4) consecutive five (5) year terms. The first term begins on January 1, 2013, the second term begins on January 1, 2018, the third term begins on January 1, 2023, and the fourth term begins on January 1, 2028. The second, third and fourth terms shall begin as stated, provided the consent of both parties is obtained prior to its term. Should the University or Contractor decide not to continue with this Agreement after the first, second, or third five (5) year terms, notice will be given to either party no later than ninety (90) days prior to the termination date of the previous term and if such notice is not given within this time frame, then the parties will have been deemed to have consented to the next term. Throughout the terms of this Agreement, all the original contract terms shall remain in effect except that the performance and payment bond is reduced to the sum of $500,000 beginning with the second term. The extension of the contract to December 2032 is subject to the approval of the University Board of Trustees.

3. <u>Amendment to Section 40</u>. Section 40 is amended to delete such Section in its entirety and replace it with following:

> 40. **<u>INVESTMENT.</u>**

A. Gourmet has previously funded an investment in the University's dining service program to fund capital improvements to the University's premises to facilitate the dining service program, in a total sum of Three Million Six Hundred Forty-three Thousand ($3,643,000) Dollars (collectively, the "Original Investment"). Gourmet has been amortizing the Original Investment on a straight line basis. As of February 28, 2017, the remaining balance of the Original Investment is Three Million Four Hundred Thirty-seven Thousand Two and 09/100 ($3,437,002.09) Dollars. Gourmet will amortize the remaining balance of the Original Investment from March 2017 until December 2032 on a straight line basis as shown on the attached Schedule A. University shall hold title to items funded by the Original Investment. If the Agreement expires or is terminated for any reason prior to the full amortization of the Original Investment, University is liable for and promises to pay to Gourmet the unamortized portion of the Original Investment, prorated monthly, immediately upon expiration or termination. The extension of the amortization to December, 2032 is subject to the approval of the University Board of Trustees.

B. Gourmet shall fund an investment in the University's dining service program to fund capital improvements to the University's resident dining premises to facilitate the dining service program, consisting of (i) improvements to the University's resident dining premises consisting of modifications to My Pantry and an Asian Foods station in a total sum not to exceed One Hundred Fifty Thousand ($150,000) Dollars, which will be amortized on a straight line basis from October 2017 to December 2032 as shown on the attached Schedule B, and (ii) renovations to the location formerly known as Ursino in a total sum equal to Five Hundred Twenty Thousand ($520,000) Dollars by no later than November 1, 2017, which will be amortized on a straight line basis from October 2017 to December 2022 (collectively, the "2017 Investment") as shown on the attached Schedule C. The 2017 Investment will be disbursed on a schedule as agreed by Gourmet and the University. The Parties acknowledge that Twenty Thousand ($20,000) of the 2017 Investment has already been disbursed. The University shall hold title to items funded by the 2017 Investment. If the Agreement expires or is terminated for any reason prior to the full amortization of the 2017 Investment, the University is liable for and promises to pay to Gourmet the unamortized portion of the 2017 Investment, prorated monthly, immediately upon expiration or termination.

4. Pursuant to Section 1.1 of Exhibit A to the Original Agreement, the University is executing its right to utilize other food services at any other specific locations,

currently including the location known as YUMBA and a new site located in the North Avenue Academic Building.

5. Pricing.

A. Gourmet and the University agree that Gourmet will continue to pay commissions as set forth in Attachment 1 to Original Agreement, except with respect to non-meal plan items (e.g. catering, retail, conference), which will result in a commission of 7% of Gross Revenue. Gross Revenue means all moneys received for sales or services rendered at or from the Premises, excluding: (1) receipts from sales of meals to employees of Gourmet; (2) any service charge made, collected and turned over to employees; (3) the proceeds of the sale of any fixtures or equipment; (4) proceeds from the sale or liquidation of any inventory which is not sold at retail; (5) any commission or processing fee paid in connection with sales by credit or bank cards; and (6) sales, gross receipts and other taxes collected by Gourmet or any other vendor as required by governmental authorities.

B. Gourmet and the University agree that Cougar Dollars shall be utilized solely for purchases from Gourmet. The University will utilize other University based currencies as necessary for other student dining options. Gourmet will bill other University based currencies as used with a 6% commission rate. The 2017-2018 academic year meal plan options are as follows:

Meal Plan	Meals	Cougar Dollars	Other Currency	Student Rate	Gourmet Rate
MK 100	Unlimited	$100	$100	$1,915	$1,708.92
KB 96	96	$200	$100	$1,371	$1,162.91
1500 Declining Balance	N/A	$1,000	$500	$1,500	$1,000

6. Operating Hours. Section 23 of the Agreement remains in full force and effect. However, Gourmet and the University specifically agree that five times per semester, the Cougar's Den will have extended hours to accommodate University programming, such dates and times to be negotiated prior to each semester.

7. Board of Trustees Approval. This Amendment is subject to approval of the University Board of Trustees. If it is not approved by the University Board of Trustees by June 30, 2017, this Amendment shall be null and void.

8. Confirmation and Integration. Except as expressly amended by this Amendment No. 3, the parties hereby confirm and ratify the Original Agreement in its entirety. The Original Agreement, as amended hereby, constitutes the entire agreement between the parties and their predecessors pertaining to the subject matter of the Agreement, as so amended, and supersedes all prior and contemporaneous agreements and understandings of the parties and their predecessors in connection therewith.

9. Counterparts. This Amendment No. 3 may be executed in any number of counterparts, each of which shall constitute an original and all of which together shall constitute but one and the same original document.

10. Headings. The section headings herein are for convenience only and do not define, limit or construe the contents of such sections.

[Remainder of Page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be signed by their duly authorized officers, all done the day and year first above written.

KEAN UNIVERSITY	GOURMET DINING, LLC
By:	By:
Name: Andrew Brannen	Name: Michael Frungillo
Title: VP for Administration & Finance	Title: President
Date: 6/8/17	Date: 11/13/17

Schedule A

3,437,002.09 Depreciation Schedule	
February 28, 2017	$ 3,437,002.09
12/31/17	$ 3,290,746.68
12/31/18	$ 3,071,363.57
12/31/19	$ 2,851,980.46
12/31/20	$ 2,632,597.35
12/31/21	$ 2,413,214.23
12/31/22	$ 2,193,831.12
12/31/23	$ 1,974,448.01
12/31/24	$ 1,755,064.90
12/31/25	$ 1,535,681.78
12/31/26	$ 1,316,298.67
12/31/27	$ 1,096,915.56
12/31/28	$ 877,532.45
12/31/29	$ 658,149.34
12/31/30	$ 438,766.22
12/31/31	$ 219,383.11
12/31/32	$ 0.00

Depreciation shall be prorated on a monthly basis.

Schedule B

October 1, 2017	$ 520,000.00
12/31/17	$ 494,000.00
12/31/18	$ 390,000.00
12/31/19	$ 286,000.00
12/31/20	$ 182,000.00
12/31/21	$ 78,000.00
12/31/22	$ -

Depreciation shall be prorated on a monthly basis.

Schedule C

October 1, 2017	$ 150,000.00
12/31/17	$ 142,500.00
12/31/18	$ 112,500.00
12/31/19	$ 82,500.00
12/31/20	$ 52,500.00
12/31/21	$ 22,500.00
12/31/22	$ -

Depreciation shall be prorated on a monthly basis.