



ISLAND OASIS FROZEN BEVERAGE CO., INC.
USE AND SERVICE AGREEMENT



THIS USE AND SERVICE AGREEMENT is made as of 8.4.17 by and between ISLAND OASIS FROZEN COCKTAIL CO., INC., a Massachusetts corporation having its principal place of business at 141 Norfolk Street, Walpole, Massachusetts 02081 ("Island Oasis"), and the undersigned customer ("Customer"), with respect to the following equipment (the "Equipment"):

Placement Fee Equipment Swap Change of Ownership Install Date: 8.4.17 Renewal Date: 8.5.18

Equipment Model: SB2100
Serial Number(s) IN: A06001366 Serial Number(s) OUT: A1015056
Rental Fee Program: Annual Amount \$400.00 Waived Requires RGM approval Tax

Table with 4 columns: ITEM #, DESCRIPTION, QUANTITY, Accessories Placed w/Equipment

TERM: This Agreement shall be effective from the date set forth below, and shall continue in effect for a term of one (1) year, and will renew automatically unless either party elects to terminate the agreement.

USE OF EQUIPMENT: Island Oasis hereby lends the Equipment to Customer to promote Customer's preparation and sales of Island Oasis frozen drink products. Cocktail accounts agree to utilize a minimum of the following four (4) Island Oasis core products at all times: Strawberry, Piña Colada, Ice Cream, and Margarita/ Sour.

SERVICES: Island Oasis will perform the following services for Customer, installation of Equipment to existing electrical source; train servers in operation, cleaning and care of the Equipment; train servers in proportioning and presentation of frozen drink products.

MARKETING REQUIREMENT: Customer agrees to advertise market and promote the sale of Island Oasis products by utilizing sales literature, materials and other promotional items provided by Island Oasis or approved by Island Oasis.

ADDITIONAL TERMS: The Terms and Conditions on the reverse side hereof are an important part of this Agreement, and are incorporated herein by reference.

RENTAL TERMS: TAD (customer initial)

New accounts:

- Year 1 - Rental fee of \$400 must be paid at time of installation by credit card plus applicable tax.
Year 2 - Accounts not meeting the annual case volume per equipment model will be charged \$300 for service.

ACCEPTED AND AGREED

The parties hereto have read this Use and Service Agreement, including the Terms and Conditions, and agree to comply with the conditions stated therein. Customer further acknowledges that the Equipment has been installed and is functioning properly.

CUSTOMER: PASEO SAP SOLD TO # 1055641 SAP SHIP TO # 1055641
ADDRESS: 11611 PASEO GRANDE BLVD.
CITY: FT. MYERS STATE: FL ZIP: 33912
CUSTOMER (print name): TODD ROWLAND Title:
CUSTOMER SIGNATURE: [Signature] DATE: 8/4/17
IO REPRESENTATIVE (print name): MATTEO CATIANI - 100041
Credit Card Payment Authorization Customer Payment Type: Terms Credit Card
SAP Order Number Date of Credit Card Payment
SAP Invoice Number Total Amount of Credit Card Payment

TERMS AND CONDITIONS

TITLE: The Equipment, at all times, will be and remain the property of Island Oasis. Upon termination of this Agreement, Customer will return all Equipment to Island Oasis.

RESTRICTIONS ON USE: As the Equipment is specifically and exclusively designed for use with IO Products, and to avoid the possibility of damage to the Equipment or confusion regarding the IO Products, Customer agrees that it, and its employees and agents, will make use of the Equipment solely in connection with the mixing and storing of IO Products, and not for any other purpose. Furthermore, Customer will not, and Customer will not permit any other person or entity to: (i) permit any other person, firm, corporation or entity to use the Equipment; (ii) transfer or encumber the Equipment; (iii) assign any rights or obligations under this Agreement without Island Oasis' prior written consent; (iv) make any changes or alterations in the Equipment; (v) remove, alter or deface any marks, markings, numbers, labels or inscriptions impressed on or affixed to the Equipment, by or with the approval of Island Oasis; or (vi) attach or affix any mark, marking, number, label or inscription on any Equipment without the prior written consent of Island Oasis.

ISLAND OASIS' DUTIES: Island Oasis agrees that it will make all reasonable efforts to furnish to Customer, from time to time, such Equipment as Customer shall request and as is listed above (if no quantity is indicated, the quantity shall be one (1) or such other number as to which Island Oasis may agree, from time to time). Island Oasis shall not be liable in any respect for failure to ship or for delay in shipment of Equipment where such failure or delay shall have been due wholly or in part to the elements, acts of God, acts of the Customer, acts of civil or military authorities, fire, floods, epidemics, quarantine restrictions, war riots, strikes, lock outs, mechanical break down, differences with workmen, accidents to machinery, delays in transportation, or delays in delivery by Island Oasis' suppliers.

NORMAL MAINTENANCE: "Normal maintenance" is limited to repairing or replacing the Equipment or parts used in the Equipment that malfunctions from normal use. "Normal use" means use of the Equipment in the ordinary course of a retail food or beverage service establishment for the preparation of IO Products, and does not include other uses or any neglect, abuse, failure to clean, accident or alteration, damage caused by fire, flood or other catastrophic events, acts of God or nature, or failure to follow normal operating procedures in accordance with instructions provided by Island Oasis. Customers can prevent leaks and service issues by properly maintaining equipment as recommended in the operations manual. For calibration instructions, contact Technical Support at 800-777-4752 extension 5250.

WARRANTY: Island Oasis and its licensors agree to repair or replace those Equipment components that become defective within one (1) year from the date of installation. This warranty covers only defects in material and workmanship under normal use and service. Expressly excluded from this warranty are repairs due to (i) Customer's or its employees' misuse of the Equipment, (ii) use of any product other than IO Products with or in the Equipment, or (iii) fire or other casualty, normal wear, or deterioration. "Misuse" includes the Customer's failure to clean the Equipment daily or handle parts or machinery properly, resulting in breakage of the Equipment, or Customer's use of unauthorized service agencies. CUSTOMER'S SOLE REMEDY WITH RESPECT TO THE EQUIPMENT SHALL BE THE REPAIR OR REPLACEMENT OF DEFECTIVE COMPONENTS UNDER THE TERMS OF THIS WARRANTY. THIS WARRANTY IS THE SOLE AND EXCLUSIVE WARRANTY WITH RESPECT TO THE EQUIPMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER ACKNOWLEDGES AND AGREES THAT EXCEPT FOR THE FOREGOING, THE EQUIPMENT IS PROVIDED ON AN "AS IS" BASIS. ALL RIGHTS TO CONSEQUENTIAL OR INCIDENTAL DAMAGES (INCLUDING CLAIMS FOR LOST SALES, LOST PROFITS, PROPERTY DAMAGES OR SERVICES EXPENSES) ARE EXPRESSLY EXCLUDED. NO DISTRIBUTOR, DEALER OR OTHER PERSON IS AUTHORIZED TO MAKE ANY COMMITMENT OR ASSUME ANY LIABILITY ON BEHALF OF ISLAND OASIS OR ITS LICENSORS BEYOND THIS WARRANTY.

TAXES: Customer will pay any and all taxes and assessments levied on the Equipment while it is in the Customer's possession or control, and Customer will pay all sales, use and other taxes and assessments levied on or payable with respect to any fees or amounts paid under this Agreement.

ACCESS: Island Oasis will, at all times, have free access to the Equipment, and to the premises on which it is located, for the purpose of examining the Equipment and the uses to which it is being put, for servicing the Equipment, and if Island Oasis so elects, removing the Equipment and resuming possession thereof.

RISK OF LOSS: All Equipment, until redelivered to Island Oasis, will be held at all times at the sole risk of Customer for injury, loss or destruction. If any Equipment is damaged or destroyed by fire or otherwise, before such redelivery, Customer will pay to Island Oasis the fair value of such Equipment, less its salvage value if any, after such damage or destruction, and Customer will return the remains of the Equipment so destroyed or damaged.

INDEMNITY: Customer agrees to indemnify and hold Island Oasis and its officers, directors, employees and agents harmless from and against any and all claims, damages, losses, liabilities, costs and expenses (including, without limitation, attorneys' fees and expenses to the maximum extent permitted by law) which any of them may incur or which may be claimed against any of them arising out of, relating to or resulting directly or indirectly from (i) any act, error, misuse, and/or omission of Customer, or its employees or agents, causing Island Oasis liability for damage to property or for injury, illness or death of persons or (ii) any breach of this Agreement by Customer or its employees or agents. Customer's obligations under this provision shall survive the termination of this Agreement.

TERMINATION: Island Oasis may terminate this Agreement at any time, for any reason, including low volume case usage. Upon such termination, Customer shall promptly return the Equipment to Island Oasis in good condition, and Island Oasis will refund to Customer a pro rata portion of any pre-paid service fee hereunder, based on the whole number of months remaining in the then-current term of this Agreement. Customer may also terminate this Agreement at any time by returning all Equipment to Island Oasis in good condition, but Island Oasis will not be obligated to refund any fees paid hereunder. Upon termination of this Agreement, for whatever cause, Customer will (i) return all Equipment to Island Oasis, at its principal place of business, in good order and condition, reasonable wear and tear arising from uses permitted under this Agreement excepted, free of any and all liens, claims, charges and encumbrances, properly crated and freight pre-paid, and (ii) immediately return to Island Oasis all technical and promotional materials supplied by Island Oasis or containing any reference to Island Oasis or its trademark or other marks, regardless of the language of such materials. If Customer fails to return all Equipment and materials in the foregoing manner, Island Oasis may enter upon Customer's premises, where any Equipment is located, and remove all Equipment and materials therefrom, without need of recourse to any legal proceedings. Any and all reasonable expenses (including attorney's fees and expenses) incurred by Island Oasis in enforcing its rights under this Agreement following any breach by Customer, will be paid by Customer to Island Oasis upon demand.

NOTICES: All notices to be given by either party to the other under this Agreement must be in writing, in the English language, shall be deemed effective upon receipt, and shall be delivered by hand or sent U.S. mail, postage prepaid, or by commercially recognized courier service or by facsimile (answer back received) to the address of the other party set forth beneath its signature below, or to such other address as either party shall advise the other to use by notice thereof in the manner provided in this paragraph.

MISCELLANEOUS: This Agreement will be binding upon and inure to the benefit of both parties and their respective legal representatives, successors and assigns. References to "this Agreement" include both (i) the front page identifying the Equipment and the Customer, and (ii) these Terms and Conditions. This Agreement may be amended or modified only by a writing signed by both parties hereto. No delay or failure by either party to exercise any right under this Agreement, and no partial or single exercise of that right, will constitute a waiver of that or any other right. This Agreement will be construed in accordance with and governed by the laws of the Commonwealth of Massachusetts, without giving effect to its conflicts of law principles. This Agreement constitutes the entire agreement between the parties hereto, with respect to the subject matter hereof, and supersedes any prior oral or written understanding between the parties. If any provision of this Agreement, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Agreement, or the application of each provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby. All headings of this Agreement are for convenience only, and will not be used to interpret or construe its provisions.

TRADEMARKS: So long as Customer possesses the Equipment, Customer will utilize either an Island Oasis approved custom drink menu, or will list IO Products and Island Oasis' name on Customer's menu. Island Oasis grants to Customer a limited, non-exclusive, non-transferable license to use and display Island Oasis' trademarks, service marks, and logos, in a manner consistent with Island Oasis' guidelines for trademark usage generally, solely for the purpose of promoting sales of IO Products and listing IO Products and Island Oasis' name on Customer's menu.

FOR ALL NON-ISLAND OASIS MANUFACTURED EQUIPMENT: Customer shall be responsible for the maintenance of the Equipment furnished to the Customer hereunder. Upon receipt by Island Oasis of the service fee, Island Oasis shall be deemed to have assigned to Customer, to the extent lawfully assignable, all of its rights under any warranty provided by the Equipment's manufacturer with respect to such piece of Equipment. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE WARRANTY FROM THE MANUFACTURER OF THE EQUIPMENT IS THE SOLE AND EXCLUSIVE WARRANTY WITH RESPECT TO THE EQUIPMENT, AND THAT ISLAND OASIS MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE EQUIPMENT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF THE EQUIPMENT, OR WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT FOR THE MANUFACTURER'S SEPARATE WARRANTY OF THE EQUIPMENT, WHICH IS MADE WITHOUT RECOURSE TO ISLAND OASIS, ALL EQUIPMENT IS PROVIDED ON AN "AS IS" BASIS. ALL RIGHTS TO CONSEQUENTIAL OR INCIDENTAL DAMAGES (INCLUDING CLAIMS FOR LOST SALES, LOST PROFITS, PROPERTY DAMAGES OR SERVICES EXPENSES) ARE EXPRESSLY EXCLUDED. NO DISTRIBUTOR, DEALER OR OTHER PERSON IS AUTHORIZED TO MAKE ANY COMMITMENT OR ASSUME ANY LIABILITY ON BEHALF OF ISLAND OASIS OR THE MANUFACTURER BEYOND THIS WARRANTY.

Customer Initial: Date: 8-4-12 Send to: WalpoleMachineInventory@kerry.com