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Expires 06/30/99  
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U.S. Department of Commerce  
Patent and Trademark Office  
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OPR/FINANCE

RECORDATION FORM COVER SHEET  
TRADEMARKS ONLY

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

- New
- Resubmission (Non-Recordation)  
Document ID # \_\_\_\_\_
- Correction of PTO Error  
Reel # \_\_\_\_\_ Frame # \_\_\_\_\_
- Corrective Document  
Reel # \_\_\_\_\_ Frame # \_\_\_\_\_

Conveyance Type

- Assignment  License
  - Security Agreement  Nunc Pro Tunc Assignment
  - Merger  Change of Name
  - Other \_\_\_\_\_
- Effective Date  
Month Day Year  
\_\_\_\_\_

Conveying Party

Mark if additional names of conveying parties attached

Name Kokopelli's Pizza Company International, Inc.

Execution Date  
Month Day Year  
09-25-99

Formerly \_\_\_\_\_

- Individual  General Partnership  Limited Partnership  Corporation  Association

Other \_\_\_\_\_

Citizenship/State of Incorporation/Organization Virginia

Receiving Party

Mark if additional names of receiving parties attached

Name Jreck Subs Group, Inc.

DBA/AKA/TA \_\_\_\_\_

Composed of \_\_\_\_\_

Address (line 1) 2101 W. State Road 434

Address (line 2) Suite 100

Address (line 3) Longwood Florida 32779  
City State/Country Zip Code

- Individual  General Partnership  Limited Partnership  Association
  - Corporation  Association
  - Other \_\_\_\_\_
- If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

Citizenship/State of Incorporation/Organization Colorado

04/17/2000 TTOM11 00000397 500279 2115484

FOR OFFICE USE ONLY

01 FC:481 40.00 CH  
02 FC:482 25.00 CH

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

Mail documents to be recorded with required cover sheet(s) information to:  
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

TRADEMARK  
REEL: 002053 FRAME: 0447

**Domestic Representative Name and Address**

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Correspondent Name and Address**

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Pages** Enter the total number of pages of the attached conveyance document including any attachments.

#

**Trademark Application Number(s) or Registration Number(s)**

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

**Trademark Application Number(s)**

**Registration Number(s)**

**Number of Properties** Enter the total number of properties involved.

#

**Fee Amount** Fee Amount for Properties Listed (37 CFR 3.41):

\$

Method of Payment:

Enclosed  Deposit Account

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number: #

Authorization to charge additional fees: Yes  No

**Statement and Signature**

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.

Sandeen K. Sandeen

Name of Person Signing



Signature

March 8, 2000

Date Signed

FILE COPY OF ORIGINAL  
DATED: September 25, 1999

10/31/99  
10/31/99  
10/31/99

# ASSET PURCHASE AGREEMENT

BETWEEN

JRECK SUBS GROUP, INC.

AND

KOKOPELLI'S PIZZA COMPANY  
INTERNATIONAL, INC.

## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the "Agreement") is made as of September 25, 1999 between Jreck Subs Group, Inc., (hereinafter referred to as "Jreck"), a Colorado corporation, and Kokopelli's Pizza Company International, Inc., (hereinafter referred to as "KPCI"), a Virginia Company.

### RECITALS

A. The parties hereto desire that Jreck acquire the assets of KPCI which exist immediately prior to Closing (as defined below) of this Agreement.

THE PARTIES AGREE AS FOLLOWS:

1. **DEFINITIONS.** For purposes of this Agreement, the following terms shall have the meanings specified in this Article 1 unless the context expressly or by necessary implication otherwise requires:

1.1 Balance Sheet and Balance Sheet Date shall have the meaning set forth in Section 4.4 of this Agreement.

1.2 Closing shall mean the delivery by Jreck and KPCI of the various documents contemplated by this Agreement.

1.3 Closing Date shall mean the delivery by Jreck and KPCI of the various documents contemplated by this Agreement or otherwise required in order to consummate this Agreement.

1.4 Corporations Code shall collectively mean the Colorado General Corporations Law (the "Delaware Corporations Code"), and the Virginia Statutes (the "Florida Statutes").

1.5 Securities Act shall mean the Securities Act of 1933, as amended, and the rules and regulations thereunder.

1.6 Assets shall mean all assets, tangible and intangible, carried on the books of KPCI at the date of closing, all franchising rights, agreements, documents, and collateral materials, all marks, trade names, intellectual property, systems, procedures and manuals for the development, execution and franchising of the KPCI System.

1.7 Liabilities shall mean all liabilities carried on the books of KPCI at the time of closing as well as all matters of pending or threatened litigation asserted or unasserted claims

from any source including all government agencies, taxing authorities, current or past franchisees and development agents and all creditors.

## **2. CLOSINGS AND TRANSFER OF SHARES.**

2.1 **Closing.** The Closing shall take place at the offices of Jreck Subs Group, Inc., 2101 W. State Road 434, Suite 100, Longwood, Florida 32779, or by mail and facsimile, on September 25, 1999 at 10:00 a.m., or at such other day and time as Jreck and KPCI shall agree (the "Closing Date") after all of the conditions to the parties' obligations to consummate this Agreement as set forth in this Agreement have been satisfied or waived.

2.2 **Consideration.** As consideration for the acquisition of the assets of KPCI free and clear of any encumbrances, liens, levies and other security interests, Jreck shall (a) pay in cash at the Closing (b) provide KPCI's designees with \_\_\_\_\_ of collected royalties derived from existing and new Kokopelli's Pizza franchises developed in the future in perpetuity. Payment of Royalty amounts due will be made within thirty (30) days of collection and (c) will pay to KPCI's designees \_\_\_\_\_ of any proceeds generated from the future sale of assets of the Kokopellis' franchising system should such a sale transpire at any date in the future; any sale of Kokopellis or its system will be to a third party in an arms length transaction and for an amount deemed to be fair market value.

**3. MUTUAL REPRESENTATIONS AND WARRANTIES.** Both Jreck and KPCI are a "Company" for the purposes of this Article 3. Except as set forth in any exhibits to this Agreement, each Company represents and warrants to the other party hereto that:

3.1 **Organization and Authority.** The Company (I) is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation; (ii) has all necessary corporate power to own and lease its properties, to carry on its business as now being conducted and to enter into and perform this Agreement and all agreements to which the Company is or will be a party that are exhibits to this Agreement; and (iii) is qualified to do business in all jurisdictions in which the failure to so qualify would have a material adverse effect on its business or financial condition. The Company has made available to the other party for inspection complete and correct copies of its Articles of Incorporation, as amended, and Bylaws as in effect on the date hereof and a record of any and all proceedings and actions at all meetings of, or taken by written consent by, its Board of Directors and shareholders, from and after August 5, 1996, in each case, certified as true, complete and correct copies by Company's Secretary.

### **3.2 Authority relating to this Agreement: No Violation of Other Instruments.**

3.2.1 The execution and delivery of this Agreement and all agreements to which KPCI is or will be a party that are exhibits to this Agreement and the performance hereunder and thereunder by KPCI have been duly authorized by all necessary corporate action on the part of KPCI and, assuming execution of this Agreement and such other agreements will constitute legal, valid and binding obligations of KPCI, enforceable against KPCI in accordance with their terms, subject as to enforcement: (i) to bankruptcy, insolvency,

reorganization, arrangement, moratorium and other laws of general applicability relating to or affecting creditors' rights; and (ii) to general principles of equity, whether such enforcement is considered in a proceeding in equity or at law.

3.2.2 To KPCI's knowledge, neither the execution of this Agreement or any other agreement to which KPCI is or will be a party that is an exhibit to this Agreement nor the performance of any of them by KPCI will: (i) conflict with or result in any breach or violation of the terms of any decree, judgment, order, law or regulation of any court or other governmental body now in effect applicable to KPCI (ii) conflict with, or result in, with or without the passage of time or the giving of notice, any breach of any of the terms, conditions and provisions of, or constitute a default under or otherwise give another party the right to terminate, or result in the creation of any lien, charge, or encumbrance upon any of the assets or properties of KPCI pursuant to, any indenture, mortgage, lease, agreement or other instrument to which KPCI is a party or by which it or any of its assets or properties are bound, including all Contracts (as defined in Section 4.13); (iii) permit the acceleration of the maturity of any material indebtedness of KPCI or of any other person secured by the assets or properties of KPCI; or (iv) violate or conflict with any provision of KPCI's Articles of Incorporation, Bylaws, or similar organizational instruments.

3.3 Brokers and Finders. Neither KPCI nor any shareholder, director, officer, employee or agent of KPCI has retained any broker, finder or investment banker in connection with the transactions contemplated by this Agreement. Jreck and KPCI will indemnify and hold the other party hereto harmless against all claims for brokers', finders' or investment bankers' fees made or asserted by any party claiming to have been employed by such Company or any shareholder, director, officer, employee or agent of such Company and all costs and expenses (including the reasonable fees of counsel) of investigating and defending such claims.

3.3.1 KPCI has represented that it's Contract with H.T. Capital Advisors L.L.C. has been cancelled appropriately through the Letter of Termination dated March 11, 1999. KPCI assumes full responsibility for any compensation owed or dispute resolution with H.T. Capital Advisors L.L.C. as a result of this transaction.

4. REPRESENTATIONS AND WARRANTIES OF KPCI. KPCI hereby represents and warrants to Jreck that except as set forth in any exhibits to this Agreement:

4.1 Compliance with Law. To KPCI's knowledge, KPCI holds, and has at all times held, all licenses, permits and authorizations necessary for the lawful conduct of KPCI's business whether conducted pursuant to all applicable statutes, laws, ordinances, rules and regulations of all governmental bodies, agencies and subdivisions having, asserting or claiming jurisdiction over KPCI or over any part of KPCI's operations' and KPCI knows of no violation thereof. KPCI is not in violation of any decree, judgment, order, and to KPCI's knowledge any law or regulation of any court or other governmental body (including without limitation, applicable franchise legislation and regulations, environmental protection legislation and regulations, equal employment and civil rights regulations, wages, hours and the payment of social security taxes and occupational health ad safety legislation), which violation could have a material adverse

effect on the condition, financial or otherwise, assets, liabilities, business or results of operations of KPCI.

4.1.a This is an asset sale of the trademarks and other systems, marks, etc. used in the Kokopellis franchise systems. The KCPI warrants the existence of the trademarks as seen in the exhibits enclosed and makes no specific representations as to the collectability nor the status of the franchises. All documentation has been disclosed regarding the assets being purchased.

4.2 Investments in Others. KPCI does not conduct any part of its business operations through any subsidiaries or through any other entity. KPCI does not, directly or indirectly, own an equity or participation interest in any other corporation, association, partnership, joint venture, limited liability company or any other entity or venture.

4.3 Tax returns and Payments. All tax returns and reports with respect to KPCI required by law to be filed under the laws of any jurisdiction, domestic or foreign, have been duly and timely filed and all taxes, fees or other governmental charges of any nature which were required to have been paid, have been paid or provided for. KPCI has no knowledge of any actual or threatened assessment of deficiency or additional tax or other governmental charges or a basis for such a claim against the Company. KPCI has no knowledge of any tax audit of the company by any taxing or other authority in connection with any of its fiscal years; KPCI has no knowledge of any such audit currently pending or threatened, and there are no tax liens on any of KPCI's assets.

4.4 Absence of certain Changes or Events. Since the date (the "Balance Sheet Date") of the most recent financial statement delivered by KPCI pursuant to Section 4.16 (the "Balance Sheet"), there have been no material changes in the condition, financial or otherwise, assets, liabilities, business or the results of operations of KPCI, other than changes in the ordinary course of business which in the aggregate have not been materially adverse.

4.5 Inventories. The inventories shown on the Balance Sheet of KPCI are of a quantity and quality useable and ssaleable in accordance with good business practices and represent a distribution of the types of inventories utilized in the business of KPCI in accordance with good business practices. Additions and deletions from the inventories since the Balance Sheet Date have been in the ordinary course of business. The amounts shown for inventories on the Balance Sheet of KPCI have been determined in accordance with U.S. GAAP on a first-in, first-out basis and are stated at the lower of cost or market.

4.6 Accounts Receivable. The accounts receivable of KPCI shown on the Balance Sheet as of the Balance Sheet date, or thereafter acquired by KPCI prior to the date hereof, have been and are (as the case may be) collectible within 60 days after the Closing Date in amounts nor less than the aggregate amounts thereof carried on the books of KPCI reduced by the reserves for discounts and bad debts taken on the Balance Sheet.

4.7 Personal Property. KPCI has good title, free and clear of all liens, encumbrances and security interests, to all of its machinery, equipment, furniture, inventory, franchise agreements and other personal property. To KPCI's knowledge, all of the leases to

personal property utilized in the business of KPCI are valid and enforceable against KPCI and are not in default.

4.8 Real Property. KPCI does not own any real property. Exhibit "A" contains a list of all leases for real property to which KPCI is a party (as lessee, sublessor, sublessee or guarantor), the monthly rental with respect to each lease and the expiration date of each lease. To KPCI's knowledge, all such leases are valid and enforceable and are not in default. The real property leased or occupied by KPCI, the improvements located thereon, and the furniture, fixtures and equipment relating thereto, (including plumbing, heating, air conditioning and electrical systems), to KPCI's knowledge conform in all material respects to any and all applicable health, fire, safety, zoning, land use and building laws, ordinances and regulations. There are no outstanding contracts made by KPCI for any material improvements made to the real property, leased or occupied by KPCI that have not been paid for.

4.9 Patents, Trademarks, Trade Names and Copyrights. Exhibit "B" sets forth all patents, trademarks, trade names, copyrights, and other intellectual property owned or utilized by KPCI. All patents, trademarks, trade names, copyrights, processes, designs, formulas, inventories, trade secrets, know-how, technology or other proprietary rights which are necessary to the conduct of KPCI's business are owned or are useable by KPCI. Upon the Closing all such items shall be owned or useable by Jreck to the same extent as by KPCI immediately prior to the Closing. To KPCI's knowledge, the conduct of any business conducted by KPCI does not infringe any patent, trademark, trade name, copyright, trade secret, or other proprietary rights of any other person. No litigation is pending or, to the knowledge of KPCI, has been threatened against KPCI of any officer, director, shareholder, employee or agent of KPCI, for the infringement of any patents, trademarks or trade names of any other party or for the misuse or misappropriation of any trade secret, know-how or other proprietary right owned by any other party nor, to the best knowledge of KPCI, does any basis exist for such litigation. To KPCI's knowledge, there has been no infringement or unauthorized use by any other party of any patent, trademark, trade name, copyright, process, design, formula, invention, trade secret, know-how, technology or other proprietary right belonging to KPCI.

4.10 Warranties. KPCI has made no warranties or guarantees relating to its products other than as implied or required by law.

4.11 Litigation. Except as set forth on Exhibit C, neither KPCI nor any officer, director, shareholder, employee or agent of KPCI is a party to any pending or, to KPCI's knowledge, threatened action, suit, proceeding or investigation, at law or in equity or otherwise in, for by any court or other governmental body which could have a material adverse effect on: (i) the condition, financial or otherwise, assets or properties of KPCI, liabilities, business or results of operations of KPCI; or (ii) the transactions contemplated by this Agreement, nor, to KPCI's knowledge, does any basis exist for any such action, suit, proceeding or investigation. KPCI is not and has not been subject to any pending, or to KPCI's knowledge threatened, product liability claim; nor to KPCI's knowledge does any basis exist for any such claim. KPCI is not subject to any decree, judgment, order, law or regulation of any court or other governmental body which could have a material adverse effect on the condition, financial or otherwise, assets, liabilities, business or results of operations of KPCI or which could prevent



the transactions contemplated by this Agreement. Notwithstanding the foregoing, the pending or threatened actions, suits, proceedings or investigations set forth on Exhibit "E" could not in the aggregate have a material adverse effect on: (i) the condition, financial or otherwise, assets or properties of KPCI, liabilities, business or results of operations of KPCI or (ii) the transactions contemplated by this Agreement.

4.12 Personnel. Exhibit D contains a true and complete list of: (i) any and all employment, bonus, profit sharing, percentage compensation, employee benefit, incentive, pension or retirement, stock purchase and stock option plans, oral or written contracts or agreements with directors, officers, employees or unions, or consulting agreements, to which KPCI is a party or is subject as of the date of this Agreement; and (ii) all group insurance programs in effect for employees of KPCI. KPCI is not in default with respect to any of the obligations so listed. KPCI has delivered complete and correct copies of all such obligations (to the extent they are in writing or written descriptions to the extent they are oral) to the other party hereto. KPCI has no union contracts or collective bargaining agreements with, or any other obligations to, employee organizations or groups relating to KPCI's negotiations except in minor grievances not involving any employee organization or group, nor, to the knowledge of KPCI, is KPCI the subject of any union organization affecting its business. There is no pending or, to KPCI's knowledge, threatened labor dispute, strike or work stoppage affecting the KPCI's business. All plans described in Exhibit "F" are in full compliance with applicable provisions of the Employees retirement Income Security Act of 1974 ("ERISA") and regulations issued under ERISA, and there is no unfunded liability with respect to such plans. Exhibit "D" also lists the amount payable to employees of KPCI under any other fringe benefit plans.

4.13 Contracts. Exhibit "E" contains a true and complete list of all oral or written agreements, notes, instruments, or contracts to which KPCI is a party or by which its assets or properties may be bound which involve the payment or receipt of more than \$1,000 (on an annual basis), or which have a term of more than six months, or which involve the licensing or use of intellectual property, or which are employment or consulting agreements (the "Contract"). KPCI is not in default in performance of its obligations under any material provisions of such Contracts. KPCI has no knowledge of any violation of any Contract by any other party thereto and has no knowledge of any intent by any other party to a Contract not to perform its obligations under such Contract.

4.14 Absence of Environmental Liabilities. To KPCI's knowledge after due inquiry, the real property at any time owned, leased or occupied by KPCI is in violation of any applicable federal, state or local law, ordinance, regulation or order relating to industrial hygiene, worker safety, public health and safety, environmental protection, or Hazardous Materials (as defined below) on, under or about such real property, including the soil and ground water underlying such real property. Any handling, transportation, storage, treatment or use of Hazardous Material (as defined below) that has occurred on the real property owned, leased or occupied by KPCI during KPCI's ownership, tenancy, or occupancy and prior to the Closing Date has been and will be as of the Closing Date in compliance with all applicable laws, ordinances, regulations and orders relating to Hazardous Material. As used herein, the term "Hazardous Material" means any substances, material or waste which is or becomes regulated as "hazardous," "toxic" or "dangerous" by any local government authority, or any state, including

without limitation, any material or substance which is: (1) petroleum; (2) asbestos; (3) lead containing paint; or (4) defined as a "hazardous substance" under Section 101 or Section 102 of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. Section 9601 et seq, as amended ("CERCLA"), and any regulations applicable thereunder. To KPCI's knowledge after due inquiry, the real property at any time owned, leased or occupied by KPCI, including without limitation, the soil and groundwater on or under such real property, is free of any significant release of any Hazardous Material. No notification of release of Hazardous Material pursuant to CERCLA or the Federal Clean Water Act, or any state or local environmental law or regulatory requirement has been received by KPCI as to any of such real property.

4.15 Financial Statements. KPCI has delivered the following financial statements of KPCI (the "KPCI Financial Statements") to Jreck: audited balance sheet and income statement for the year ending September 30, 1997, schedule of royalty income for the year ending September 30, 1997, schedule of marketing fund income and expenses for the year ending September 30, 1997. Each Financial Statement together with the notes thereto is in accordance with the books and records of KPCI, fairly presents the financial position of KPCI and the results of operations for the period indicated, and has been prepared in accordance with generally accepted accounting principles consistently applied.

4.16 Liabilities. KPCI has disclosed certain liabilities including Aronson, Letridge & Weigle. KPCI represents that there are no outstanding liabilities which could in any way encumber the assets being acquired by Jreck or be the responsibility of Jreck following this transaction.

4.16.1 KPCI warrants that it will cure without assistance from Jreck any and all liabilities disclosed or undisclosed, known or unknown, which occurred or were created prior to the date of closing which become a lien on the assets of Jreck.

4.17 Compliance with Law. Exhibit "F" contains a true and complete list of all licenses, permits and authorizations necessary for the lawful conduct of KPCI's business whether conducted pursuant to all applicable statutes, laws, ordinances, rule and regulations of all governmental bodies, agencies and subdivisions having, asserting or claiming jurisdiction over KPCI or over any part of KPCI's operations.

4.18 Taxes. Exhibit "G" contains a true and complete list of all types of taxes paid or required to be paid by KPCI and each state to which KPCI pays sales or use tax related to the sale of its products.

4.19 Insurance. Copies of all KPCI insurance policies and bonds have been furnished to Jreck. All such insurance policies and bonds are in full force and effect.

4.20 Bank Accounts. Exhibit "H" contains a true and complete list of

all KPCI bank accounts identifying the name of the bank, the account number, and the authorized signatories to the account.

4.21 Power of Attorney: Suretyships. KPCI has no power of attorney outstanding, nor has any obligation or liability, either actual, accrued, accruing or contingent, as guarantor, surety, cosigner, endorser, co-maker, indemnitor or otherwise in respect of the obligation of any other person, corporation, joint venture, association, organization or other entity.

4.22 Accuracy of UFOC. To KPCI's knowledge, the "SBK Franchise Systems, Inc Franchise Offering Circular, effective date November 1996 ("KPCI's UFOC"), attached as Exhibit "P", complies with all legal requirements of the State of Florida respecting franchise offering circulars as well as all legal requirements of any other state where KPCI is doing business or offering franchises. All of the statements, financial data and other information contained in KPCI's UFOC were true and correct as of and continue to be true and correct in all material respects as of the date hereof and the date of Closing. KPCI's UFOC, as of the date hereof and Closing, does not contain any untrue statement of a material fact nor does it omit to state a material fact necessary to make the statements or facts contained therein not misleading.

5. CONDITIONS TO THE OBLIGATION OF JRECK. The obligation of Jreck to consummate this Agreement is subject to the fulfillment, at or before the Closing of all the following conditions, any one or more of which may be waived by Jreck.

5.1 Representations and Warranties True at Closing. The representations and warranties of KPCI contained in this Agreement shall be deemed to have been made again at and as of the Closing with respect to the stated facts then existing and shall be true in all material respects.

5.2 Covenants Performed. All of the obligations of KPCI to be performed at or before the Closing pursuant to the terms of this Agreement shall have been duly performed.

5.3 Certificate. At the Closing, Jreck shall have received a certificate signed by the President and Chief Executive Officer of KPCI to the effect that the conditions set forth in Sections 5.1 and 5.2 have been satisfied.

5.4 Shareholder/Board of Director Approval. This Agreement, to the extent required by law, shall have been duly approved by the shareholder and Board of Directors of KPCI, and by the Board of Directors of Jreck as of the date hereof. Both KPCI and Jreck shall certify to the other at Closing that all such shareholder and board of director approvals continue to be effective as of the date of Closing.

5.5 Material Changes in the Business of KPCI. There shall have been no material adverse change in the financial position, results of operations, assets, liabilities or business of KPCI since the date of this Agreement.

5.6 Consents. Jreck shall have received in writing any consents, approvals, and waivers required in connection with this Agreement (a) from parties to KPCI's agreements, indentures, mortgages, franchises, licenses, permits, leases, and other instruments set forth in exhibits to this Agreement, including without limitation the Contracts and (b) from all governmental authorities.

5.7 Documentation. All actions, proceedings, instruments, resolutions, certificates, and documents reasonably requested Jreck to be executed and delivered to Jreck in order to carry out this Agreement and to consummate this Agreement, and all of the relevant legal matters, shall be reasonably satisfactory to Jreck and its counsel including, without limitation compliance with any applicable state or federal securities law or regulation.

6. CONDITIONS TO THE OBLIGATION OF KPCI. The obligation of KPCI to consummate this Agreement is subject to the fulfillment, at or before the Closing, of all of the following conditions, any one or more of which may be waived by KPCI:

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6.4 Certificate. At Closing, KPCI shall have received a certificate signed by the President and Chief Executive Officer of Jreck to the effect that the conditions set forth in Sections 6.1 and 6.2 have been satisfied.

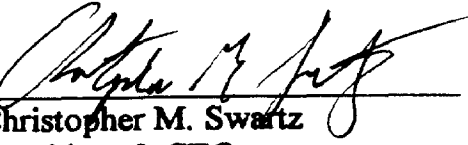
## 7. PRE-CLOSING COVENANTS.

7.1 Pre-Closing Documents. During the period from the date of this Agreement until the Closing, KPCI and Jreck covenants and agree as follows:

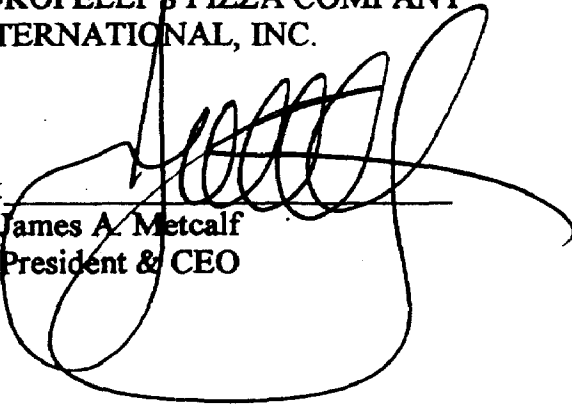
7.1.1 Advice of Changes. KPCI will promptly advise Jreck in writing (i) of any event occurring subsequent to the date of this Agreement that would render any representation or warranty of KPCI contained in this Agreement, if made on or as of the date of such event or the Closing Date, untrue or inaccurate in any material respect and (ii) of any material adverse change in KPCI's business.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this 25 day of September, 1999.

JRECK SUBS GROUP, INC

BY:   
\_\_\_\_\_  
Christopher M. Swartz  
President & CEO

KOKOPELLI'S PIZZA COMPANY  
INTERNATIONAL, INC.

BY:   
\_\_\_\_\_  
James A. Metcalf  
President & CEO

FILE COPY OF ORIGINAL  
DATED: September 25, 1999

10/31/99  
ASSET PURCHASE AGREEMENT  
JRECK SUBS GROUP, INC.

# ASSET PURCHASE AGREEMENT

BETWEEN

JRECK SUBS GROUP, INC.

AND

KOKOPELLI'S PIZZA COMPANY  
INTERNATIONAL, INC.

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1.5 Securities Act shall mean the Securities Act of 1933, as amended, and the rules and regulations thereunder.

1.6 Assets shall mean all assets, tangible and intangible, carried on the books of KPCI at the date of closing, all franchising rights, agreements, documents, and collateral materials, all marks, trade names, intellectual property, systems, procedures and manuals for the development, execution and franchising of the KPCI System.

1.7 Liabilities shall mean all liabilities carried on the books of KPCI at the time of closing as well as all matters of pending or threatened litigation asserted or unasserted claims

from any source including all government agencies, taxing authorities, current or past franchisees and development agents and all creditors.

## **2. CLOSINGS AND TRANSFER OF SHARES.**

2.1 **Closing.** The Closing shall take place at the offices of Jreck Subs Group, Inc., 2101 W. State Road 434, Suite 100, Longwood, Florida 32779, or by mail and facsimile, on September 25, 1999 at 10:00 a.m., or at such other day and time as Jreck and KPCI shall agree (the "Closing Date") after all of the conditions to the parties' obligations to consummate this Agreement as set forth in this Agreement have been satisfied or waived.

2.2 **Consideration.** As consideration for the acquisition of the assets of KPCI free and clear of any encumbrances, liens, levies and other security interests, Jreck shall (a) pay in cash at the Closing (b) provide KPCI's designees with of collected royalties derived from existing and new Kokopelli's Pizza franchises developed in the future in perpetuity. Payment of Royalty amounts due will be made within thirty (30) days of collection and (c) will pay to KPCI's designees of any proceeds generated from the future sale of assets of the Kokopellis' franchising system should such a sale transpire at any date in the future; any sale of Kokopellis or its system will be to a third party in an arms length transaction and for an amount deemed to be fair market value.

**3. MUTUAL REPRESENTATIONS AND WARRANTIES.** Both Jreck and KPCI are a "Company" for the purposes of this Article 3. Except as set forth in any exhibits to this Agreement, each Company represents and warrants to the other party hereto that:

3.1 **Organization and Authority.** The Company (I) is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation; (ii) has all necessary corporate power to own and lease its properties, to carry on its business as now being conducted and to enter into and perform this Agreement and all agreements to which the Company is or will be a party that are exhibits to this Agreement; and (iii) is qualified to do business in all jurisdictions in which the failure to so qualify would have a material adverse effect on its business or financial condition. The Company has made available to the other party for inspection complete and correct copies of its Articles of Incorporation, as amended, and Bylaws as in effect on the date hereof and a record of any and all proceedings and actions at all meetings of, or taken by written consent by, its Board of Directors and shareholders, from and after August 5, 1996, in each case, certified as true, complete and correct copies by Company's Secretary.

### **3.2 Authority relating to this Agreement: No Violation of Other Instruments.**

3.2.1 The execution and delivery of this Agreement and all agreements to which KPCI is or will be a party that are exhibits to this Agreement and the performance hereunder and thereunder by KPCI have been duly authorized by all necessary corporate action on the part of KPCI and, assuming execution of this Agreement and such other agreements will constitute legal, valid and binding obligations of KPCI, enforceable against KPCI in accordance with their terms, subject as to enforcement: (i) to bankruptcy, insolvency,



reorganization, arrangement, moratorium and other laws of general applicability relating to or affecting creditors' rights; and (ii) to general principles of equity, whether such enforcement is considered in a proceeding in equity or at law.

3.2.2 To KPCI's knowledge, neither the execution of this Agreement or any other agreement to which KPCI is or will be a party that is an exhibit to this Agreement nor the performance of any of them by KPCI will: (i) conflict with or result in any breach or violation of the terms of any decree, judgment, order, law or regulation of any court or other governmental body now in effect applicable to KPCI (ii) conflict with, or result in, with or without the passage of time or the giving of notice, any breach of any of the terms, conditions and provisions of, or constitute a default under or otherwise give another party the right to terminate, or result in the creation of any lien, charge, or encumbrance upon any of the assets or properties of KPCI pursuant to, any indenture, mortgage, lease, agreement or other instrument to which KPCI is a party or by which it or any of its assets or properties are bound, including all Contracts (as defined in Section 4.13); (iii) permit the acceleration of the maturity of any material indebtedness of KPCI or of any other person secured by the assets or properties of KPCI; or (iv) violate or conflict with any provision of KPCI's Articles of Incorporation, Bylaws, or similar organizational instruments.

3.3 Brokers and Finders. Neither KPCI nor any shareholder, director, officer, employee or agent of KPCI has retained any broker, finder or investment banker in connection with the transactions contemplated by this Agreement. Jreck and KPCI will indemnify and hold the other party hereto harmless against all claims for brokers', finders' or investment bankers' fees made or asserted by any party claiming to have been employed by such Company or any shareholder, director, officer, employee or agent of such Company and all costs and expenses (including the reasonable fees of counsel) of investigating and defending such claims.

3.3.1 KPCI has represented that its Contract with H.T. Capital Advisors L.L.C. has been cancelled appropriately through the Letter of Termination dated March 11, 1999. KPCI assumes full responsibility for any compensation owed or dispute resolution with H.T. Capital Advisors L.L.C. as a result of this transaction.

4. REPRESENTATIONS AND WARRANTIES OF KPCI. KPCI hereby represents and warrants to Jreck that except as set forth in any exhibits to this Agreement:

4.1 Compliance with Law. To KPCI's knowledge, KPCI holds, and has at all times held, all licenses, permits and authorizations necessary for the lawful conduct of KPCI's business whether conducted pursuant to all applicable statutes, laws, ordinances, rules and regulations of all governmental bodies, agencies and subdivisions having, asserting or claiming jurisdiction over KPCI or over any part of KPCI's operations' and KPCI knows of no violation thereof. KPCI is not in violation of any decree, judgment, order, and to KPCI's knowledge any law or regulation of any court or other governmental body (including without limitation, applicable franchise legislation and regulations, environmental protection legislation and regulations, equal employment and civil rights regulations, wages, hours and the payment of social security taxes and occupational health and safety legislation), which violation could have a material adverse

effect on the condition, financial or otherwise, assets, liabilities, business or results of operations of KPCI.

4.1.a This is an asset sale of the trademarks and other systems, marks, etc. used in the Kokopellis franchise systems. The KPCI warrants the existence of the trademarks as seen in the exhibits enclosed and makes no specific representations as to the collectability nor the status of the franchises. All documentation has been disclosed regarding the assets being purchased.

4.2 Investments in Others. KPCI does not conduct any part of its business operations through any subsidiaries or through any other entity. KPCI does not, directly or indirectly, own an equity or participation interest in any other corporation, association, partnership, joint venture, limited liability company or any other entity or venture.

4.3 Tax returns and Payments. All tax returns and reports with respect to KPCI required by law to be filed under the laws of any jurisdiction, domestic or foreign, have been duly and timely filed and all taxes, fees or other governmental charges of any nature which were required to have been paid, have been paid or provided for. KPCI has no knowledge of any actual or threatened assessment of deficiency or additional tax or other governmental charges or a basis for such a claim against the Company. KPCI has no knowledge of any tax audit of the company by any taxing or other authority in connection with any of its fiscal years; KPCI has no knowledge of any such audit currently pending or threatened, and there are no tax liens on any of KPCI's assets.

4.4 Absence of certain Changes or Events. Since the date (the "Balance Sheet Date") of the most recent financial statement delivered by KPCI pursuant to Section 4.16 (the "Balance Sheet"), there have been no material changes in the condition, financial or otherwise, assets, liabilities, business or the results of operations of KPCI, other than changes in the ordinary course of business which in the aggregate have not been materially adverse.

4.5 Inventories. The inventories shown on the Balance Sheet of KPCI are of a quantity and quality useable and saleable in accordance with good business practices and represent a distribution of the types of inventories utilized in the business of KPCI in accordance with good business practices. Additions and deletions from the inventories since the Balance Sheet Date have been in the ordinary course of business. The amounts shown for inventories on the Balance Sheet of KPCI have been determined in accordance with U.S. GAAP on a first-in, first-out basis and are stated at the lower of cost or market.

4.6 Accounts Receivable. The accounts receivable of KPCI shown on the Balance Sheet as of the Balance Sheet date, or thereafter acquired by KPCI prior to the date hereof, have been and are (as the case may be) collectible within 60 days after the Closing Date in amounts not less than the aggregate amounts thereof carried on the books of KPCI reduced by the reserves for discounts and bad debts taken on the Balance Sheet.

4.7 Personal Property. KPCI has good title, free and clear of all liens, encumbrances and security interests, to all of its machinery, equipment, furniture, inventory, franchise agreements and other personal property. To KPCI's knowledge, all of the leases to

personal property utilized in the business of KPCI are valid and enforceable against KPCI and are not in default.

**4.8 Real Property.** KPCI does not own any real property. Exhibit "A" contains a list of all leases for real property to which KPCI is a party (as lessee, sublessor, sublessee or guarantor), the monthly rental with respect to each lease and the expiration date of each lease. To KPCI's knowledge, all such leases are valid and enforceable and are not in default. The real property leased or occupied by KPCI, the improvements located thereon, and the furniture, fixtures and equipment relating thereto, (including plumbing, heating, air conditioning and electrical systems), to KPCI's knowledge conform in all material respects to any and all applicable health, fire, safety, zoning, land use and building laws, ordinances and regulations. There are no outstanding contracts made by KPCI for any material improvements made to the real property, leased or occupied by KPCI that have not been paid for.

**4.9 Patents, Trademarks, Trade Names and Copyrights.** Exhibit "B" sets forth all patents, trademarks, trade names, copyrights, and other intellectual property owned or utilized by KPCI. All patents, trademarks, trade names, copyrights, processes, designs, formulas, inventories, trade secrets, know-how, technology or other proprietary rights which are necessary to the conduct of KPCI's business are owned or are useable by KPCI. Upon the Closing all such items shall be owned or useable by Jreck to the same extent as by KPCI immediately prior to the Closing. To KPCI's knowledge, the conduct of any business conducted by KPCI does not infringe any patent, trademark, trade name, copyright, trade secret, or other proprietary rights of any other person. No litigation is pending or, to the knowledge of KPCI, has been threatened against KPCI of any officer, director, shareholder, employee or agent of KPCI, for the infringement of any patents, trademarks or trade names of any other party or for the misuse or misappropriation of any trade secret, know-how or other proprietary right owned by any other party nor, to the best knowledge of KPCI, does any basis exist for such litigation. To KPCI's knowledge, there has been no infringement or unauthorized use by any other party of any patent, trademark, trade name, copyright, process, design, formula, invention, trade secret, know-how, technology or other proprietary right belonging to KPCI.

**4.10 Warranties.** KPCI has made no warranties or guarantees relating to its products other than as implied or required by law.

**4.11 Litigation.** Except as set forth on Exhibit C, neither KPCI nor any officer, director, shareholder, employee or agent of KPCI is a party to any pending or, to KPCI's knowledge, threatened action, suit, proceeding or investigation, at law or in equity or otherwise in, for by any court or other governmental body which could have a material adverse effect on: (i) the condition, financial or otherwise, assets or properties of KPCI, liabilities, business or results of operations of KPCI; or (ii) the transactions contemplated by this Agreement, nor, to KPCI's knowledge, does any basis exist for any such action, suit, proceeding or investigation. KPCI is not and has not been subject to any pending, or to KPCI's knowledge threatened, product liability claim; nor to KPCI's knowledge does any basis exist for any such claim. KPCI is not subject to any decree, judgment, order, law or regulation of any court or other governmental body which could have a material adverse effect on the condition, financial or otherwise, assets, liabilities, business or results of operations of KPCI or which could prevent

the transactions contemplated by this Agreement. Notwithstanding the foregoing, the pending or threatened actions, suits, proceedings or investigations set forth on Exhibit "E" could not in the aggregate have a material adverse effect on: (i) the condition, financial or otherwise, assets or properties of KPCI, liabilities, business or results of operations of KPCI or (ii) the transactions contemplated by this Agreement.

4.12 Personnel. Exhibit D contains a true and complete list of: (i) any and all employment, bonus, profit sharing, percentage compensation, employee benefit, incentive, pension or retirement, stock purchase and stock option plans, oral or written contracts or agreements with directors, officers, employees or unions, or consulting agreements, to which KPCI is a party or is subject as of the date of this Agreement; and (ii) all group insurance programs in effect for employees of KPCI. KPCI is not in default with respect to any of the obligations so listed. KPCI has delivered complete and correct copies of all such obligations (to the extent they are in writing or written descriptions to the extent they are oral) to the other party hereto. KPCI has no union contracts or collective bargaining agreements with, or any other obligations to, employee organizations or groups relating to KPCI's negotiations except in minor grievances not involving any employee organization or group, nor, to the knowledge of KPCI, is KPCI the subject of any union organization affecting its business. There is no pending or, to KPCI's knowledge, threatened labor dispute, strike or work stoppage affecting the KPCI's business. All plans described in Exhibit "F" are in full compliance with applicable provisions of the Employees retirement Income Security Act of 1974 ("ERISA") and regulations issued under ERISA, and there is no unfunded liability with respect to such plans. Exhibit "D" also lists the amount payable to employees of KPCI under any other fringe benefit plans.

4.13 Contracts. Exhibit "E" contains a true and complete list of all oral or written agreements, notes, instruments, or contracts to which KPCI is a party or by which its assets or properties may be bound which involve the payment or receipt of more than \$1,000 (on an annual basis), or which have a term of more than six months, or which involve the licensing or use of intellectual property, or which are employment or consulting agreements (the "Contract"). KPCI is not in default in performance of its obligations under any material provisions of such Contracts. KPCI has no knowledge of any violation of any Contract by any other party thereto and has no knowledge of any intent by any other party to a Contract not to perform its obligations under such Contract.

4.14 Absence of Environmental Liabilities. To KPCI's knowledge after due inquiry, the real property at any time owned, leased or occupied by KPCI is in violation of any applicable federal, state or local law, ordinance, regulation or order relating to industrial hygiene, worker safety, public health and safety, environmental protection, or Hazardous Materials (as defined below) on, under or about such real property, including the soil and ground water underlying such real property. Any handling, transportation, storage, treatment or use of Hazardous Material (as defined below) that has occurred on the real property owned, leased or occupied by KPCI during KPCI's ownership, tenancy, or occupancy and prior to the Closing Date has been and will be as of the Closing Date in compliance with all applicable laws, ordinances, regulations and orders relating to Hazardous Material. As used herein, the term "Hazardous Material" means any substances, material or waste which is or becomes regulated as "hazardous," "toxic" or "dangerous" by any local government authority, or any state, including

without limitation, any material or substance which is: (1) petroleum; (2) asbestos; (3) lead containing paint; or (4) defined as a "hazardous substance" under Section 101 or Section 102 of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. Section 9601 et seq, as amended ("CERCLA"), and any regulations applicable thereunder. To KPCI's knowledge after due inquiry, the real property at any time owned, leased or occupied by KPCI, including without limitation, the soil and groundwater on or under such real property, is free of any significant release of any Hazardous Material. No notification of release of Hazardous Material pursuant to CERCLA or the Federal Clean Water Act, or any state or local environmental law or regulatory requirement has been received by KPCI as to any of such real property.

**4.15 Financial Statements.** KPCI has delivered the following financial statements of KPCI (the "KPCI Financial Statements") to Jreck: audited balance sheet and income statement for the year ending September 30, 1997, schedule of royalty income for the year ending September 30, 1997, schedule of marketing fund income and expenses for the year ending September 30, 1997. Each Financial Statement together with the notes thereto is in accordance with the books and records of KPCI, fairly presents the financial position of KPCI and the results of operations for the period indicated, and has been prepared in accordance with generally accepted accounting principles consistently applied.

**4.16 Liabilities.** KPCI has disclosed certain liabilities including Aronson, Letridge & Weigle. KPCI represents that there are no outstanding liabilities which could in any way encumber the assets being acquired by Jreck or be the responsibility of Jreck following this transaction.

**4.16.1** KPCI warrants that it will cure without assistance from Jreck any and all liabilities disclosed or undisclosed, known or unknown, which occurred or were created prior to the date of closing which become a lien on the assets of Jreck.

**4.17 Compliance with Law.** Exhibit "F" contains a true and complete list of all licenses, permits and authorizations necessary for the lawful conduct of KPCI's business whether conducted pursuant to all applicable statutes, laws, ordinances, rule and regulations of all governmental bodies, agencies and subdivisions having, asserting or claiming jurisdiction over KPCI or over any part of KPCI's operations.

**4.18 Taxes.** Exhibit "G" contains a true and complete list of all types of taxes paid or required to be paid by KPCI and each state to which KPCI pays sales or use tax related to the sale of its products.

**4.19 Insurance.** Copies of all KPCI insurance policies and bonds have been furnished to Jreck. All such insurance policies and bonds are in full force and effect.

**4.20 Bank Accounts.** Exhibit "H" contains a true and complete list of

all KPCI bank accounts identifying the name of the bank, the account number, and the authorized signatories to the account.

**4.21 Power of Attorney: Suretyships.** KPCI has no power of attorney outstanding, nor has any obligation or liability, either actual, accrued, accruing or contingent, as guarantor, surety, cosigner, endorser, co-maker, indemnitor or otherwise in respect of the obligation of any other person, corporation, joint venture, association, organization or other entity.

**4.22 Accuracy of UFOC.** To KPCI's knowledge, the "SBK Franchise Systems, Inc Franchise Offering Circular, effective date November 1996 ("KPCI's UFOC"), attached as Exhibit "T", complies with all legal requirements of the State of Florida respecting franchise offering circulars as well as all legal requirements of any other state where KPCI is doing business or offering franchises. All of the statements, financial data and other information contained in KPCI's UFOC were true and correct as of and continue to be true and correct in all material respects as of the date hereof and the date of Closing. KPCI's UFOC, as of the date hereof and Closing, does not contain any untrue statement of a material fact nor does it omit to state a material fact necessary to make the statements or facts contained therein not misleading.

**5. CONDITIONS TO THE OBLIGATION OF JRECK.** The obligation of Jreck to consummate this Agreement is subject to the fulfillment, at or before the Closing of all the following conditions, any one or more of which may be waived by Jreck.

**5.1 Representations and Warranties True at Closing.** The representations and warranties of KPCI contained in this Agreement shall be deemed to have been made again at and as of the Closing with respect to the stated facts then existing and shall be true in all material respects.

**5.2 Covenants Performed.** All of the obligations of KPCI to be performed at or before the Closing pursuant to the terms of this Agreement shall have been duly performed.

**5.3 Certificate.** At the Closing, Jreck shall have received a certificate signed by the President and Chief Executive Officer of KPCI to the effect that the conditions set forth in Sections 5.1 and 5.2 have been satisfied.

**5.4 Shareholder/Board of Director Approval.** This Agreement, to the extent required by law, shall have been duly approved by the shareholder and Board of Directors of KPCI, and by the Board of Directors of Jreck as of the date hereof. Both KPCI and Jreck shall certify to the other at Closing that all such shareholder and board of director approvals continue to be effective as of the date of Closing.

**5.5 Material Changes in the Business of KPCI.** There shall have been no material adverse change in the financial position, results of operations, assets, liabilities or business of KPCI since the date of this Agreement.

5.6 Consents. Jreck shall have received in writing any consents, approvals, and waivers required in connection with this Agreement (a) from parties to KPCI's agreements, indentures, mortgages, franchises, licenses, permits, leases, and other instruments set forth in exhibits to this Agreement, including without limitation the Contracts and (b) from all governmental authorities.

5.7 Documentation. All actions, proceedings, instruments, resolutions, certificates, and documents reasonably requested Jreck to be executed and delivered to Jreck in order to carry out this Agreement and to consummate this Agreement, and all of the relevant legal matters, shall be reasonably satisfactory to Jreck and its counsel including, without limitation compliance with any applicable state or federal securities law or regulation.

6. CONDITIONS TO THE OBLIGATION OF KPCI. The obligation of KPCI to consummate this Agreement is subject to the fulfillment, at or before the Closing, of all of the following conditions, any one ore more of which may be waived by KPCI:

6.1 Representations and Warranties True at Closing. The representations and warranties of Jreck contained in this Agreement shall be deemed to have been made again at and as of the Closing with respect to the states facts then existing and shall be true in all material respects.

6.2 Covenants Performed. All of the obligations of Jreck to be performed at or before the Closing pursuant to the terms of this Agreement shall have been duly performed.

6.3 Documentation. All actions, proceedings, instruments, resolutions, certificates, and documents reasonably requested by KPCI to b e executed and delivered to KPCI in order to carry out this Agreement and to consummate this Agreement, and all of the relevant legal matters, shall be reasonably satisfactory to KPCI and its counsel.

6.4 Certificate. At Closing, KPCI shall have received a certificate signed by the President and Chief Executive Officer of Jreck to the effect that the conditions set forth in Sections 6.1 and 6.2 have been satisfied.

## 7. PRE-CLOSING COVENANTS.

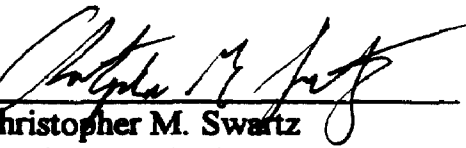
7.1 Pre-Closing Documents. During the period from the date of this Agreement until the Closing, KPCI and Jreck covenants and agree as follows:

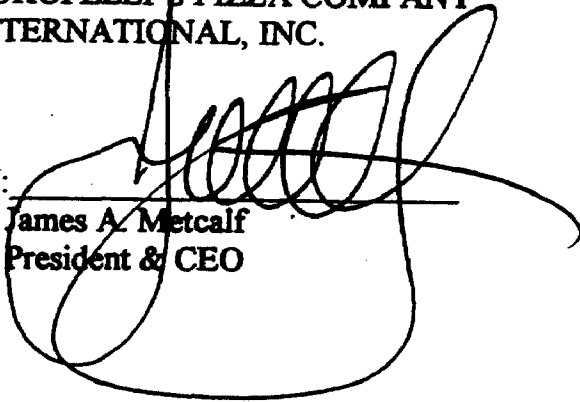
7.1.1 Advice of Changes. KPCI will promptly advise Jreck in writing (i) of any event occurring subsequent to the date of this Agreement that would render any representation or warranty of KPCI contained in this Agreement, if made on or as of the date of such event or the Closing Date, untrue or inaccurate in any material respect and (ii) of any material adverse change in KPCI's business.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this 25 day of September, 1999.

JRECK SUBS GROUP, INC

KOKOPELLI'S PIZZA COMPANY  
INTERNATIONAL, INC.

BY:   
Christopher M. Swartz  
President & CEO

BY:   
James A. Metcalf  
President & CEO