



# CYRUS

**CLASS B MEMBERSHIP INTERESTS**

**SUBSCRIPTION DOCUMENTS**

**DATED AS OF December 15, 2021**

## Subscription Instructions

All investors must deliver an executed set of subscription documents, consisting of the following:

- (i) the Subscription Agreement enclosed herein; and
- (ii) a check or wire transfer in the amount of one hundred percent (100%) of the capital contribution corresponding to the Class B Membership Interests being purchased, as indicated on the signature page to the Subscription Agreement.

The delivery deadline for items (i) through (iii) above is **5:00 p.m. Pacific Time on January 31, 2022**. You should allow sufficient time for delivery of your subscription documents and subscription payments to the Company and clearance of payment before 5:00 p.m., Pacific Time, on January 31, 2022.

The Subscription Agreement and all exhibits and schedules thereto may be completed by a duly authorized person (such as an officer) or agent on behalf of the Investor. Any person signing the Subscription Agreement in a representative capacity should type or print on the appropriate signature pages the name of the Investor, the name of the person signing the Subscription Agreement and the capacity in which he or she is signing.

\* \* \*

We have provided you copies of the Company's Notice and Consent Solicitation Statement dated December 1, 2021 (the "**Offering Notice**"), the Operating Agreement of the Company, and Subscription Agreement (collectively, the "**Subscription Documents**") for your review.

## Delivery Instructions

Electronic copies of the executed subscription documents should be delivered by email to [doug@chefdouglaskeane.com](mailto:doug@chefdouglaskeane.com) and [lmwhite@manatt.com](mailto:lmwhite@manatt.com).

### Wire Instructions

Wire transfers of subscription funds should be sent to the account provided by the manager of the Company, Cyrus Restaurant, LLC (the “**Manager**”).

**Please notify the Manager at [doug@chefdouglaskeane.com](mailto:doug@chefdouglaskeane.com) once funds have been wired.**

The Company will hold all subscription funds in its account until accepted for use by the Company. If the subscription is not accepted, the subscription documents shall have no force or effect, and the subscription funds will be promptly returned to you. If the subscription is accepted, a copy of the Acceptance signed by the Manger will be returned to you.

### Additional Information and Questions

For additional information concerning subscriptions and subscription procedures, please contact the Manager at [doug@chefdouglaskeane.com](mailto:doug@chefdouglaskeane.com).

## SUBSCRIPTION AGREEMENT

### PLEASE READ CAREFULLY BEFORE SIGNING

This **SUBSCRIPTION AGREEMENT** (this “*Agreement*”) is made and entered into by and between Cyrus 2.0 LLC, a California limited liability company (the “*Company*”) and the undersigned holder of Class B Membership Interests of the Company (the “*Investor*”), with reference to the facts set forth below. Terms used, but not otherwise defined herein, shall have the meanings given to them in the Amended and Restated Operating Agreement of the Company, dated as of December 9, 2021 (the “*Operating Agreement*”).

### RECITALS

**WHEREAS**, subject to the terms and conditions of this Agreement, the Investor wishes to subscribe for and purchase additional Units of Class B Membership Interests in the Company (the “*Units*”); and

**WHEREAS**, the Investor has received and reviewed the terms of the offering (the “*Offering*”) of Units to be offered and sold, on a pro rata basis, to current holders of Class B Membership Interests in the Company (collectively, the “*Class B Members*”) as provided in that certain Notice and Consent Solicitation Statement dated December 1, 2021 (the “*Offering Notice*”).

### AGREEMENT

**NOW THEREFORE**, in order to implement the foregoing and in consideration of the mutual representations, warranties, covenants and agreements contained herein and by setting forth their signatures below, on the signature date listed below, the parties hereto agree as follows:

**1. Overview.**

The Units are being issued by the Company for the purposes set forth in the Offering Notice.

**2. Subscription for the Purchase of Units.**

A. Subscription for Interests in the Company. Subject to the express terms and conditions of this Agreement and the Operating Agreement, the Investor hereby irrevocably subscribes for the number of Units shown below the Investor’s signature to this Agreement (the “*Subscription*”). The Investor understands and agrees that this Agreement is intended to be binding on the Investor. All subscription funds will be deposited in the Company’s account and be available for use by the Company upon acceptance by the Manager of the Subscription. If the Subscription is not accepted, or only a portion of the Subscription is accepted, the unaccepted subscription funds will be returned to the Investor. The Investor hereby acknowledges that the Manager reserves the right, in its sole discretion, to (i) accept all or any part of a subscription from any subscriber, (ii) reject any or all subscriptions received for any reason and irrespective of the order in which received, (iii) request additional information to verify an Investor’s suitability for the Offering, and (iv) terminate the Offering at any time without notice. The Investor may not

cancel, terminate or revoke the Subscription or this Agreement, which, in the case of an individual, shall survive such individual's death or disability and shall be binding upon the Investor, the Investor's heirs, trustees, beneficiaries, executors, personal or legal administrators or representatives, successors, transferees and assigns. All subscriptions not accepted or rejected by the termination of the Offering will be deemed to be rejected.

B. Acceptance of Subscription. The Investor acknowledges, understands and agrees that the delivery of a counterpart signature page to this Agreement and such Investor's submission of a check (or wire transfer of funds) will not constitute a sale of any Units by the Company unless and until the subscription is accepted by the Manager, which acceptance may be made in the Manager's sole discretion. Any such acceptance will be evidenced by the Manager executing and mailing (or emailing) or otherwise delivering to the Investor an accepted counterpart of this Agreement and the Subscription Documents. The Investor agrees to execute any other necessary documents or instruments in connection with the Subscription and the Investor's purchase of the Units.

C. The Offering. The Offering of Units by the Company is described in the Offering Notice provided to the Investor. Please read this Agreement, the Offering Notice, and the Operating Agreement. While these documents are subject to change, as described below, the Company advises the Investor to print and retain a copy of these documents.

### **3. Purchase of Units.**

A. The Investor understands that the capital contribution amount of the Units is payable with the execution and submission of this Agreement.

B. Once an Investor makes a funding commitment to purchase Units, it is irrevocable until the purchase is rejected by the Company.

C. In the event that the purchase of a Unit is rejected or the Offering is terminated, the Company shall refund to the Investor any payment made by the Investor to the Company with respect to the rejected Unit without interest and without deduction, and all of the obligations of Investor hereunder shall remain in full force and effect except for those obligations with respect to the rejected Unit, which shall terminate.

### **4. Terms of the Class B Membership Interests.**

A. In the event that there is any conflict of interpretation of terms among parties to the Subscription Documents, the Operating Agreement shall control.

B. The Units shall have the terms and conditions described in the Subscription Documents, which have been made available to Investor for review.

### **5. General Investor Representations.**

The Investor represents and warrants to the Company the following:

A. The information that the Investor has furnished herein is correct and complete as of the date of this Agreement and will be correct and complete on the date, if any, that the Company accepts the Subscription. Further, the Investor shall immediately notify the Company of any change in any statement made herein prior to the Investor's receipt of the Company's acceptance of the Subscription. The representations and warranties made by the Investor may be fully relied upon by the Company and any other investigating party relying on them.

B. The information that the Investor has furnished or will furnish in connection with the purchase of the Unit(s) will be correct and complete as of the date, if any, that the Company issues the Unit(s). Further, the Investor shall immediately notify the Company of any change in any statement made in connection with the purchase of the Unit(s) prior to the Investor's receipt of any issued Unit(s).

C. The Investor has the requisite power and authority to deliver this Agreement, perform his, her or its obligations set forth herein, and consummate the transactions contemplated hereby. The Investor has duly executed and delivered this Agreement and has obtained the necessary authorization to execute and deliver this Agreement and to perform Investor's obligations herein and to consummate the transactions contemplated hereby. This Agreement, assuming the due execution and delivery hereof by the Company, is a legal, valid and binding obligation of the Investor enforceable against the Investor in accordance with its terms.

D. At no time has it been expressly or implicitly represented, guaranteed or warranted to the Investor by the Company or any other person that:

- i. A percentage of profit and/or amount or type of gain or other consideration will be realized as a result of this investment; or
- ii. The past performance or experience on the part of the Company, the Company, or their respective officers or directors in any way indicates the predictable or probable results of the ownership of the Units.

E. The Investor's true and correct full legal name, address of residence, phone number, electronic mail address, United States taxpayer identification number and other contact information are accurately provided to the Company. The Investor is currently a bona fide resident of the state or jurisdiction set forth in the home state provided to the Company.

F. The Investor is subscribing for the purchase of Units solely for the Investor's own account, for investment purposes only, and not with a view towards or in connection with resale, distribution (other than to its shareholders or members, if any), subdivision or fractionalization thereof. The Investor has no agreement or other arrangement, formal or informal, with any person or entity to sell, transfer or pledge any part of the Units, or which would guarantee the Investor any profit, or insure against any loss with respect to the Units, and the Investor has no plans to enter into any such agreement or arrangement.

G. The Investor represents and warrants that the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby and the performance of the obligations hereunder will not conflict with or result in any violation of or default under any

provision of any other agreement or instrument to which the Investor is a party or any license, permit, franchise, judgment, order, writ or decree, or any statute, rule or regulation, applicable to the Investor. The Investor confirms that the consummation of the transactions envisioned herein, including, but not limited to, the Investor's purchase, will not violate any foreign law and that such transactions are lawful in the Investor's country of citizenship and residence.

## **6. Investor Representations Regarding Investment Terms.**

The Investor represents and warrants to the Company the following:

A. The Investor has received, carefully read and is familiar with the terms and provisions of this Agreement, the Operating Agreement and the related Offering Notice.

B. The Investor has received all information that it considers necessary or appropriate for deciding whether to purchase the Units. The Investor and/or the Investor's advisors, who are not affiliated with and not compensated directly or indirectly by the Company, the Company or an affiliate thereof, have such knowledge and experience in business and financial matters as will enable them to utilize the information which they have received in connection with the Company, the Company and their respective businesses to evaluate the merits and risks of an investment, to make an informed investment decision and to protect Investor's own Units in connection with the purchase. The Investor has had an opportunity to ask questions of the Company or anyone acting on their behalf and to receive answers concerning the terms of this Agreement, the Operating Agreement and the Units, as well as about the Company and its businesses generally, and to obtain any additional information that the Company possesses or can acquire without unreasonable effort or expense, that is necessary to verify the accuracy of the information contained in this Agreement. Further, all such questions have been answered to the full satisfaction of the Investor.

C. The Investor understands that the Units being purchased are a speculative investment which involves a substantial degree of risk of loss of the Investor's entire investment in the Class B Membership Interests, and the Investor understands and is fully cognizant of the risk factors related to the purchase of the Units.

D. The Investor understands that any forecasts or predictions as to the Company's performance are based on estimates, assumptions and forecasts that the Company believes to be reasonable but that may prove to be materially incorrect, and no assurance is given that actual results will correspond with the results contemplated by the various forecasts.

E. The Investor understands that the Units may not be resold, transferred, assigned or otherwise disposed of unless they are registered under the Securities Act of 1933, as amended (the "*Act*") or an exemption from registration is available, and unless the proposed disposition is in compliance with the restrictions on transferability under federal and state securities laws and under this Agreement.

F. The Investor understands that there are substantial restrictions on the transferability of the Units and that there is no public market for the Units, and none is expected to develop in the near future. Consequently, the Investor understands that it must bear the

economic risk of this investment for an indefinite period of time, and that it may not be possible for the Investor to liquidate readily any investment in the Units, if at all.

G. The Investor understands that neither the Company nor the Manager has been registered as an investment company under the Investment Company Act of 1940, as amended.

H. The Investor understands that neither the Company nor the Manager is registered as an investment adviser under the Investment Advisers Act of 1940, as amended.

I. The Investor understands the exemption under Rule 144 promulgated under the Act will not be generally available because of the conditions and limitations of such rule, that each of the Company and the Manager has no obligation and does not intend to take any action to make available such exemption or any other exemption under the Act, and that because of the unavailability of such exemption, any disposition by the Investor of the Units may require compliance with Regulation A or some other exemption under the Act.

J. The Investor confirms that the Investor has been advised to consult with the Investor's independent attorney regarding legal matters concerning the Company and to consult with independent tax advisers regarding the tax consequences of investing in the Units offered by the Company. The Investor acknowledges that Investor understands that any anticipated United States federal or state income tax benefits may not be available and, further, may be adversely affected through adoption of new laws or regulations or amendments to existing laws or regulations. The Investor acknowledges and agrees that neither the Company nor the Manager is providing any warranty or assurance regarding the ultimate availability of any tax benefits to the Investor by reason of the purchase.

K. Investor acknowledges that Investor is prepared to bear the risk of loss of Investor's entire investment amount for any purchase of Units by such Investor.

## **7. Investor Representations Regarding Eligibility.**

The Investor represents and warrants to the Company the following:

A. The Investor is eighteen years of age or older, competent to enter into a contractual obligation, and a citizen or resident of the United States of America. The principal residence of the Investor is shown on the signature page below.

B. The Investor is able to bear the economic risk of this investment and, without limiting the generality of the foregoing, is able to hold this investment for an indefinite period of time. The Investor has adequate means to provide for the Investor's current needs and personal contingencies and has a sufficient net worth to sustain the loss of the Investor's entire investment in Units.

C. The amount of Units of Class B Membership Interests being purchased by the Investor does not exceed 10% of the Investor's net worth, determined exclusive of home, home furnishings and automobiles.

D. The Investor is an “accredited investor” as that term is defined in Rule 501 under Regulation D promulgated under the Act. The Investor agrees to provide any additional documentation that the Company may reasonably request to verify that Investor qualifies as an “accredited investor” or Sophisticated Investor, or as may be required by the securities administrators or regulators of any state, to confirm that the Investor meets any applicable minimum financial suitability standards and has satisfied any applicable maximum investment limits. Investor has experience making investments similar to the Units.

E. Investor is not a disqualified “bad actor” as such term is defined in Rule 506(d) under the Act.

F. Investor represents that no suit, action, claim, investigation or other proceeding is pending or, to the best of the Investor’s knowledge, is threatened against the Investor that questions the validity of the Units or this Agreement or any action taken or to be taken pursuant to the Units or this Agreement.

#### **8. Investor Representations Related to Anti-Money Laundering Measures.**

Each of the Company and the Manager intend to comply with all applicable federal, state and local laws designed to combat money laundering and similar illegal activities. Investor hereby represents, covenants, and agrees that, to the best of Investor’s knowledge based on reasonable investigation:

A. None of the Investor’s funds tendered for the purchase of the Units (whether payable in cash or otherwise) shall be derived from money laundering or similar activities deemed illegal under federal laws and regulations.

B. To the extent within the Investor’s control, none of the Investor’s funds tendered for the purchase of the Units will cause the Company, the Company or any of its personnel or affiliates to be in violation of federal anti-money laundering laws, including (without limitation) the Bank Secrecy Act (31 U.S.C. 5311 *et seq.*), the United States Money Laundering Control Act of 1986 or the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001, and/or any regulations promulgated thereunder.

C. When requested by the Company, the Investor will provide any and all additional information, and the Investor understands and agrees that the Company may release confidential information about the Investor and, if applicable, any underlying beneficial owner to U.S. regulators and law enforcement authorities, deemed reasonably necessary to ensure compliance with all applicable laws and regulations concerning money laundering and similar activities. The Company reserves the right to request any information as is necessary to verify the identity of the Investor and the source of any funds used to purchase the Units.

D. The Investor hereby agrees to immediately notify the Company if the Investor knows, or has reason to suspect, that any of the representations in this Section 8 have become incorrect or if there is any change in the information affecting these representations and covenants.

E. The Investor agrees that, if at any time it is discovered that any of the foregoing anti-money laundering representations are incorrect, or if otherwise required by applicable laws or regulations, the Company may undertake appropriate actions, and the Investor agrees to cooperate with such actions, to ensure compliance with such laws or regulations, including, but not limited to segregation and/or redemption of the Investor's interest in the Units.

**9. Representations and Warranties of the Company.**

The Company hereby represents and warrants to the Investor as follows:

A. The Company is a California limited liability company duly organized, validly existing and in good standing under the laws of the State of California, having full power and authority to own its properties and carry on its business as conducted.

B. The Company has the requisite power and authority to deliver this Agreement, perform its obligations herein and consummate the transactions contemplated hereby.

C. The Units to be issued to the Investor pursuant to this Agreement, when issued and delivered in accordance with the terms of this Agreement, will be duly authorized and validly issued by the Company.

**10. Subsequent Sales or Transfers.**

Subject to the provisions of the Operating Agreement, the Investor acknowledges and agrees that if any Units issued by the Company becomes available for resale or transfer, neither the Company nor any other person shall be obligated to offer the same to the Investor, and such available Units may be resold or transferred, subject to compliance with any agreements to which such Units may be subject and any and all applicable state and federal laws, rules and regulations. In addition, the following provisions shall apply to all sales and transfers of the Units:

A. The Units have not been registered with the Securities and Exchange Commission under the Act, in reliance upon the exemptions provided for under Section 4(a)(2) and Rule 506 of Regulation D thereunder. The Units may not be sold or otherwise transferred without registration under the Act or pursuant to an exemption therefrom.

B. No sale or transfer shall be effective unless the buyer or transferee has executed and delivered to the Company all documents required by the Company for investing in the Units and paid the transfer fee to the Company.

C. In the event that all conditions for transfer set forth in this Agreement have been satisfied, then upon due presentment for registration of transfer of a Unit at the office or agency of the Company, accompanied by a written instrument of transfer in form satisfactory to the Company duly executed by the Investor or the Investor's attorney electronically or in writing, the Units shall be transferred to the transferee in exchange therefor, subject to any transfer fee payable to the Company and to any stamp tax or other governmental charge imposed in connection therewith.

## 11. Electronic Service.

The Investor agrees to transact business with the Company and to receive communications relating to the Units electronically.

A. All notices and communications to be given or otherwise made to the Investor by the Company shall be deemed to be sufficient if sent by electronic mail to such address as set forth for the Investor at the records of the Company.

B. All notices and communications to be given or otherwise made to the Company by the Investor shall be deemed to be sufficient if sent by electronic mail to [doug@chefdouglaskeane.com](mailto:doug@chefdouglaskeane.com) (with a copy to be sent concurrently via prepaid certified mail to 5100 West Soda Rock Lane, Healdsburg, CA 95448).

C. The Investor hereby agrees that the Company may deliver all notices and any and all other documents, information and communications concerning the Company, the Company or the Units by means of e-mail, or by other means of electronic communication.

D. As part of doing business with the Company, the Investor must consent to receiving certain Disclosures (as defined below) electronically to the email address provided to the Company by the Investor. By entering into this Agreement, the Investor consents to receive electronically all documents, communications, notices, contracts, and agreements arising from or relating in any way to the Investor's, the Company' or the Company's rights, obligations or services under this Agreement (each, a "**Disclosure**"). The decision to do business with the Company electronically is the Investor's. This document informs the Investor of their rights concerning Disclosures.

E. The Investor hereby agrees to keep the Company informed of any change in their email or home mailing address so that the Investor can continue to receive all Disclosures in a timely fashion. If the Investor's registered e-mail address changes, the Investor must promptly notify the Company.

## 12. Indemnity.

The Investor hereby indemnifies and holds harmless the Company, the Manager and their respective officers, directors, managers, stockholders, partners, members, agents, counsel, servants, employees, affiliates, parent companies, subsidiaries, heirs, personal and legal representatives and administrators, successors and assigns from, of and against any and all losses, costs, claims, expenses and damages of every kind, known or unknown, contingent or otherwise (including, but not limited to, reasonable attorneys' fees and court costs incurred), or liability due, which any one of them may incur by reason of (i) failure of the Investor to fulfill any of the terms or conditions of this Agreement, (ii) any breach of any representation or warranty of the Investor, whether contained in this Agreement or elsewhere, or (iii) Investor's wrongful acts, omissions and representations (and those of the Investor's employees, agents or representatives). Investor's obligation to indemnify the Company shall survive termination of this Agreement, regardless of the reason for termination.

**13. Confidentiality.**

The Investor acknowledges that the information contained in the Subscription Documents contain confidential and nonpublic information, and agrees that all such information shall be kept in confidence by the Investor and neither used by the Investor for the Investor's personal benefit (other than in connection with the Subscription) nor disclosed to any third party for any reason; provided, however, that this obligation shall not apply to any such information which:

A. is part of the public knowledge or literature readily accessible on the date hereof;

B. becomes part of the public knowledge or literature and readily accessible by publication (except as a result of a breach of this provision);

C. is received from third parties (except third parties who disclose such information in violation of any confidentiality agreements, including, without limitation, any subscription agreement they may have entered into with the Company); or

D. is required to be disclosed by applicable law, provided that in such instance the Investor shall give the Company sufficient notice of such disclosure in advance in order that the Company may obtain a protective order preventing disclosure thereof if desired.

The parties hereto hereby agree and acknowledge that a breach of this Section 13 of this Agreement would result in severe and irreparable injury to the other party, which injury could not be adequately compensated by an award of money damages, and the parties therefore agree and acknowledge that they shall be entitled to injunctive relief in the event of any breach of any material term, condition or provision of Section 13 of this Agreement, or to enjoin or prevent such a breach, including without limitation an action for specific performance hereof, and the parties hereby irrevocably consent to the issuance of any such injunction. The parties further agree that no bond or surety shall be required in connection therewith.

**14. No Advisory Relationship.**

The Investor hereby acknowledges and agrees that the purchase and sale of any Units pursuant to this Agreement is an arms-length transaction between the Investor and the Company. In connection with the purchase and sale of the Units, neither the Company nor the Company is acting as the Investor's agent or fiduciary. Neither the Company nor the Company assume any advisory or fiduciary responsibility in the Investor's favor in connection with the Units or the corresponding project investments. Neither the Company nor the Company have provided the Investor with any legal, accounting, regulatory or tax advice with respect to the Units, and the Investor has consulted its own respective legal, accounting, regulatory and tax advisors to the extent that the Investor has deemed appropriate.

**15. Prohibited Activities.**

The Investor agrees that the Investor will not do any of the following in connection with any Units or other transactions involving or potentially involving the Company:

- A. take any action to collect, or attempt to collect from any party, directly or through any third party, any amount under the Units;
- B. contact any party other than the Company or the Manager that may be related or unrelated to the Investor's Units;
- C. violate any applicable federal, state or local laws, rules or regulations.

**16. Power of Attorney.**

The Investor hereby irrevocably makes, constitutes and appoints the Manager (which constitution and appointment is coupled with an interest), with full power of substitution and re-substitution, the Investor's true and lawful attorney-in-fact for the Investor and in the Investor's name (as the Manager shall determine), place and stead and for the Investor's use and benefit to make, execute, deliver, certify, acknowledge, swear to, file, record and publish:

- A. the Operating Agreement in substantially the form furnished by the Manager to the Investor; and
- B. any instruments and documents necessary to (i) qualify or continue the Company as a limited liability company in the states or other jurisdictions where the Manager deems advisable, (ii) effect the assignment of an interest in the Company or the dissolution and termination of the Company in accordance with the Operating Agreement, (iii) effect the transfer of interests in the Company or to the admission of substitute Members in accordance with the terms of the Operating Agreement, and (iv) take any action authorized in accordance with the Operating Agreement or effect any other business certificate, fictitious name certificate, amendment thereto, or other instrument or document of any kind necessary or desirable to accomplish the business, purpose and objectives of the Company or required by any applicable law.

This power of attorney is intended to secure an interest in property and, in addition, the obligation of the Investor under this Agreement and the Operating Agreement, is coupled with an interest, is irrevocable (to the fullest extent permitted by law) and shall survive, and shall not be affected by, the subsequent death, disability, incapacity, incompetency, termination, bankruptcy, insolvency or dissolution of the Investor.

**17. The Company' and Company's Right to Modify Terms.**

The Investor authorizes the Company to correct obvious clerical errors appearing in information that the Investor provides to the Company, without notice, although neither the Company nor the Company undertake any obligation to identify or correct such errors.

**18. Termination.**

Subject to the provisions of the Operating Agreement, the Company may, in its sole discretion, with or without cause, terminate this Agreement by giving the Investor written notice. In addition, upon the reasonable determination by the Company that the Investor committed fraud or made a material misrepresentation in connection with a commitment to purchase any Units, performed

any prohibited activity, or otherwise failed to abide by the terms of this Agreement or other applicable terms and conditions, the Company may, in its sole discretion, immediately and without notice, take one or more of the following actions: (i) terminate or suspend the Investor's right to purchase Units; (ii) terminate this Agreement and the Investor's relationship with the Company, and (iii) repurchase any Class B Membership Interests that have been issued to the Investor. Upon termination of this Agreement, any commitments that the Investor has made to purchase Units shall be terminated.

**19. Bankruptcy.**

In the event that the Investor files or enters bankruptcy, insolvency or other similar proceeding, the Investor agrees to use the best efforts possible to avoid the Company being named as a party or otherwise involved in the bankruptcy proceeding. Furthermore, this Agreement should be interpreted so as to prevent, to the maximum extent permitted by applicable law, any bankruptcy trustee, receiver or debtor-in-possession from asserting, requiring or seeking that (i) the Investor be allowed by the Company to return the Class B Membership Interests to the Company for a refund or (ii) the Company be mandated or ordered to redeem or withdraw Class B Membership Interests held or owned by the Investor.

**20. Miscellaneous Provisions.**

A. This Agreement shall be governed by and construed in accordance with the laws of the State of California (without regard to the conflicts of laws principles thereof).

B. This Agreement, or the rights, obligations or Units of the Investor hereunder, may not be assigned, transferred or delegated without the prior written consent of the Company. Any such assignment, transfer or delegation in violation of this Section shall be null and void.

C. The parties agree to execute and deliver such further documents and information as may be reasonably required in order to effectuate the purposes of this Agreement.

D. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of each of the parties hereto.

E. If one or more provisions of this Agreement are held to be unenforceable under applicable law, rule or regulation, such provision shall be excluded from this Agreement and the balance of the Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

F. In the event that either party hereto shall commence any suit, action or other proceeding to interpret this Agreement, or determine to enforce any right or obligation created hereby, then such party, if it prevails in such action, shall recover its reasonable costs and expenses incurred in connection therewith, including, but not limited to, reasonable attorney's fees and expenses and costs of appeal, if any.

G. This Agreement and the other Subscription Documents constitute the entire agreement among the parties and shall constitute the sole documents setting forth terms and conditions of the Investor's contractual relationship with the Company with regard to the matters set forth herein. This Agreement supersedes any and all prior or contemporaneous communications, whether oral, written or electronic, between the parties. The Investor acknowledges and agrees that this Agreement shall govern the investment in Units unless and until superseded by an amended or restated agreement expressly replacing this Agreement.

H. This Agreement may be executed in any number of counterparts, or facsimile counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

I. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement. The singular number, as used herein, shall be deemed to include the plural number whenever the context so requires.

J. Except as otherwise set forth herein, the parties acknowledge that there are no third party beneficiaries of this Agreement, other than any affiliates of the Company, which the parties expressly agree shall be third party beneficiaries hereof.

## **21. Limitations on Damages.**

IN NO EVENT SHALL THE COMPANY OR MANAGER BE LIABLE TO THE INVESTOR FOR ANY LOST PROFITS OR SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES, OR IN ANY ACTION OR CLAIM ARISING FROM THIS AGREEMENT OR THE OTHER SUBSCRIPTION DOCUMENTS. THE FOREGOING SHALL BE INTERPRETED AND HAVE EFFECT TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, RULE OR REGULATION.

## **22. Arbitration.**

A. Except as otherwise specifically provided in this Agreement, or as otherwise required by a non-waivable provision of applicable law, or as agreed by the Manager in writing, any Claim (as defined below) shall be resolved exclusively through final and binding arbitration in accordance pursuant to this Section 22 (this "***Arbitration Provision***"). THE INVESTOR EXPRESSLY ACKNOWLEDGES THAT, UNDER THE PRECEDING SENTENCE, INVESTOR IS WAIVING INVESTOR'S RIGHT TO A JURY TRIAL WITH REGARD TO ALL MATTERS FOR WHICH ARBITRATION IS REQUIRED. Any arbitration arising out of or relating to this Agreement shall be held in San Francisco, California. As used in this Arbitration Provision, "***Claim***" shall include any past, present, or future claim, dispute, or controversy involving a Member (or persons claiming through or connected with the Investor), on the one hand, and the Company (or persons claiming through or connected with the Company), on the other hand, relating to or arising out of this Agreement, any Unit, and/or the activities or relationships that involve, lead to, or result from any of the foregoing, including (except to the extent provided otherwise in the last sentence of Section 22(F) below) the validity or enforceability of this Arbitration Provision, any part thereof, or the entire Agreement. Claims are subject to

arbitration regardless of whether they arise from contract; tort (intentional or otherwise); a constitution, statute, common law, or principles of equity; or otherwise. Claims include (without limitation) matters arising as initial claims, counter-claims, cross-claims, third-party claims, or otherwise. The scope of this Arbitration Provision is to be given the broadest possible interpretation that is enforceable.

B. The party initiating arbitration shall do so with the American Arbitration Association or JAMS. The arbitration shall be conducted according to the rules and policies of the administrator selected, except to the extent the rules conflict with this Arbitration Provision or any countervailing law. In the case of a conflict between the rules and policies of the administrator and this Arbitration Provision, this Arbitration Provision shall control, subject to countervailing law, unless all parties to the arbitration consent to have the rules and policies of the administrator apply.

C. Within thirty (30) days of a final award by the arbitrator, a party may appeal the award for reconsideration by a three-arbitrator panel selected according to the rules of the arbitrator administrator. In the event of such an appeal, an opposing party may cross-appeal within thirty (30) days after notice of the appeal. The panel will reconsider de novo all aspects of the initial award that are appealed. Costs and conduct of any appeal shall be governed by this Arbitration Provision and the administrator's rules, in the same way as the initial arbitration proceeding. Any award by the individual arbitrator that is not subject to appeal, and any panel award on appeal, shall be final and binding, except for any appeal right under the Federal Arbitration Act (the "*FAA*"), and may be entered as a judgment in any court of competent jurisdiction.

D. Each party to any arbitration arising out of or related to this Agreement shall pay an equal share of the arbitrator's fees and each party shall be responsible for such party's attorneys, accountants and expert fees and related expenses in connection with such arbitration.

E. Unless otherwise provided in this Agreement or consented to in writing by all parties to the arbitration, no party to the arbitration may join, consolidate, or otherwise bring claims for or on behalf of two or more individuals or unrelated corporate entities in the same arbitration unless those persons are parties to a single transaction. Unless consented to in writing by all parties to the arbitration, an award in arbitration shall determine the rights and obligations of the named parties only, and only with respect to the claims in arbitration, and shall not (i) determine the rights, obligations, or the Units of anyone other than a named party, or resolve any Claim of anyone other than a named party, or (ii) make an award for the benefit of, or against, anyone other than a named party. No administrator or arbitrator shall have the power or authority to waive, modify, or fail to enforce this Section 22(E), and any attempt to do so, whether by rule, policy, arbitration decision or otherwise, shall be invalid and unenforceable. Any challenge to the validity of this Section 22(E) shall be determined exclusively by a court and not by the administrator or any arbitrator.

F. This Arbitration Provision is made pursuant to a transaction involving interstate commerce and shall be governed by and enforceable under the FAA. The arbitrator will apply substantive law consistent with the FAA and applicable statutes of limitations. The arbitrator may award damages or other types of relief permitted by applicable substantive law, subject to the

limitations set forth in this Arbitration Provision. The arbitrator will not be bound by judicial rules of procedure and evidence that would apply in a court. The arbitrator shall take steps to reasonably protect confidential information.

G. This Arbitration Provision shall survive (i) suspension, termination, revocation, closure, or amendments to this Agreement and the relationship of the parties; (ii) the bankruptcy or insolvency of any party hereto or other party; and (iii) any transfer of any Units to any other party. If any portion of this Arbitration Provision other than Section 22(F) is deemed invalid or unenforceable, the remaining portions of this Arbitration Provision shall nevertheless remain valid and in force. In no event shall any invalidation be deemed to authorize an arbitrator to determine Claims or make awards beyond those authorized in this Arbitration Provision.

**23. Authority.**

By executing this Agreement, the Investor expressly acknowledges that the Investor has reviewed this Agreement and the other Subscription Documents.

*[Signature page follows.]*

**SIGNATURE PAGE FOR INDIVIDUALS**

IN WITNESS WHEREOF, the undersigned Investor has executed the Subscription Agreement to purchase Class B Membership Interests in the amount shown below the Investor's signature below on the date set forth below.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Social Security No./  
Tax Identification No.

\_\_\_\_\_  
Date of Birth

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Residential Address

\_\_\_\_\_  
Mailing Address (if different)

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Date

**Amount of Class B Membership  
Interests subscribed for:**

\$ \_\_\_\_\_

**Number of Units of Class B  
Membership Interests subscribed for:**

\_\_\_\_\_

**SIGNATURE PAGE FOR JOINT ACCOUNTS**

IN WITNESS WHEREOF, the undersigned Investors have executed the Subscription Agreement to purchase Units of Class B Membership Interests in the amount shown below the Investors' signature below on the date set forth below.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Social Security No./  
Tax Identification No.

\_\_\_\_\_  
Date of Birth

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Social Security No./  
Tax Identification No.

\_\_\_\_\_  
Date of Birth

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Residential Address

\_\_\_\_\_  
Mailing Address (if different)

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Date

Type of Ownership (Initial One)

\_\_\_\_\_ Tenants in Common

\_\_\_\_\_ Joint Tenants with Right of Survivorship

\_\_\_\_\_ Community Property with Right of Survivorship

**Amount of Class B Membership Interests subscribed for:**      \$ \_\_\_\_\_

**Number of Units of Class B Membership Interests subscribed for:**      \_\_\_\_\_

**SIGNATURE PAGE FOR IRAS**

IN WITNESS WHEREOF, the undersigned entity has executed this Subscription Agreement to purchase Units of Class B Membership Interests in the amount shown below the Investor's signature below on the date set forth below.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Social Security No./  
Tax Identification No.

\_\_\_\_\_  
Date of Birth

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Residential Address

\_\_\_\_\_  
Mailing Address (if different)

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Date

The undersigned warrants that he/she has full power and authority to execute this Subscription Agreement on behalf of the above entity, and investment in the Company is not prohibited by the governing documents of the entity.

\_\_\_\_\_  
Date

Name of IRA: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature)

Signer's Printed Name: \_\_\_\_\_

Signer's Title: \_\_\_\_\_

\_\_\_\_\_  
IRA Custodian/Trustee

**Amount of Class B Membership Interests subscribed for:**      \$ \_\_\_\_\_

**Number of Units of Class B Membership Interests subscribed for:**      \_\_\_\_\_

**SIGNATURE PAGE FOR (I) REVOCABLE TRUSTS; (II) OTHER ENTITIES WHERE  
THE RESPECTIVE EQUITY OWNERS OR TRUST GRANTORS (AS APPLICABLE)  
ARE ACCREDITED INVESTORS; AND (III) ALL OTHER ENTITIES**

IN WITNESS WHEREOF, the undersigned entity has executed this Subscription Agreement to purchase Units of Class B Membership Interests in the amount shown below the Investor's signature below on the date set forth below.

Form of Entity:

Trust    Corporation    Limited Liability Company    Partnership  

Other: \_\_\_\_\_

\_\_\_\_\_  
Print Entity Name

\_\_\_\_\_  
Tax Identification No.

\_\_\_\_\_  
Residential Address

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Date

The undersigned warrants that he/she has full power and authority to execute this Subscription Agreement on behalf of the above entity, and investment in the Company is not prohibited by the governing documents of the entity.

\_\_\_\_\_  
Date

Name of Trust/Entity: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature)

Signer's Printed Name: \_\_\_\_\_

Signer's Title: \_\_\_\_\_

**Amount of Class B Membership Interests subscribed for:**      \$ \_\_\_\_\_

**Number of Units of Class B Membership Interests subscribed for:**      \_\_\_\_\_

**ACCEPTANCE**

The undersigned, as the Manager of **Cyrus 2.0 LLC** (the “**Company**”), hereby accepts the subscription identified below as of the date set forth below Manager’s signature hereto, on behalf of itself and on behalf of the Company. The Subscription shall not be binding until accepted by the Manager and shall become effective as of the date of such acceptance, upon the terms set forth in the Subscription Agreement.

**Name of Subscriber:** \_\_\_\_\_

**Amount of Class B Membership Interests subscribed for:** \$ \_\_\_\_\_

**Number of Units of Class B Membership Interests subscribed for:** \_\_\_\_\_

**MANAGER:**

Cyrus Restaurant, LLC, a California limited liability company

By: \_\_\_\_\_

Name: Douglas R. Keane

Its: Manager