

Schedule B

AMENDED AND RESTATED AGREEMENT AND PLAN OF REORGANIZATION dated as of December 29, 1994 and amended as of March 17, 1995 by and among **BENIHANA OF TOKYO, INC.**, a New York corporation ("BOT"), **BENIHANA NATIONAL CORP.**, a Delaware corporation ("BNC"), **BENIHANA INC.**, a Delaware corporation ("Benihana") and **BNC MERGER CORP.**, a Delaware corporation and a newly formed subsidiary of Benihana ("Merger Sub").

R E C I T A L S:

A. The Boards of Directors of each of BOT and BNC have determined that it is in the best interests of their respective stockholders that BNC acquire certain of the assets and business of BOT, subject to liabilities incurred in the ordinary course of business, upon the terms and conditions herein set forth.

B. In furtherance of the acquisition above-described, and based upon the advice of the respective legal, financial and tax advisors to each of BNC and BOT, the Boards of Directors of BOT and BNC have determined to effect such acquisition by forming Benihana. The business and assets of BOT which are the subject of the transactions contemplated hereby will be transferred (the "Transfer") to Benihana, subject to the assumption of certain liabilities hereinafter described. Contemporaneously with the Transfer, BNC shall merge with Merger Sub (the "Merger"). The Transfer and the Merger are hereinafter referred to collectively as the "Reorganization."

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, the parties hereto hereby agree as follows:

ARTICLE I
The Transfer

Section 1.01 The Transfer. Subject to the terms and conditions hereof at the Effective Time (as defined in Section 2.02), BOT agrees to sell, transfer and assign to Benihana (or to a wholly-owned subsidiary of Benihana designated by Benihana), all of BOT's right, title and interest in and to all assets (the "Assets") of BOT specifically related to the Restaurants (as hereinafter defined), including, without limitation, the following:

(a) all chattels, fixtures, equipment and other personal property (the "Chattels") owned by BOT and used in the operation of each of the "Benihana of Tokyo" restaurants listed on Schedule A hereto (the "Restaurants");

(b) all leasehold interests or other interests in real property owned or used by BOT in respect of the Restaurants;

(c) all liquor licenses and other permits and licenses used in the operation of the Restaurants which are transferable in accordance with applicable laws and regulations;

(d) each of the trademarks and servicemarks (the "Trademarks") listed on Schedule 1.01(d) to the extent applicable to the United States (including its territories and possessions), Central America, South America and the islands of the Caribbean sea (the "Territory"), including all goodwill related thereto;

(e) cash and accounts receivable related to the Restaurants;

(f) the inventory of closed packages of food and beverages located at the Restaurants or centrally stored or on order for the Restaurants, subject to compliance with all applicable laws and regulations; and

(g) each of the license agreements set forth on Schedule 1.01(g) hereto and all rights related thereto.

Subject only to the representations and warranties of BOT contained herein, the Assets are to be assigned by BOT and acquired by Benihana on an "as is" basis as of the Effective Time. The business conducted by BOT through the Restaurants is hereinafter referred to as the "Business."

Section 1.02 Transfer Consideration. In consideration of the Transfer, Benihana agrees to issue and deliver the following consideration (the "Transfer Consideration") to BOT at the Effective Time:

(a) a wire transfer of \$3,000,000 in immediately available funds;

(b) 2,000 shares of Benihana's Series A Convertible Preferred Stock (the "Preferred Stock") having a liquidation preference of \$1,000 per share and convertible, in the aggregate, into no fewer than 300,000 shares and no more than

450,000 shares of the Class A Common Stock, par value \$.10 per share, of Benihana, in the form and substance and in accordance with the terms and conditions as set forth in the Certificate of Designation annexed hereto as Schedule B;

(c) 76,905 shares of the Common Stock, par value \$.10 per share, of Benihana (such number determined by dividing (i) \$500,000 by (ii) the average closing price of the Common Stock of BNC during the 10 day period ending on the date immediately prior to the date hereof); and

(d) an unsecured promissory note of Benihana in the principal amount of \$650,000 payable to BOT or its order and bearing interest at the rate of 7.50% per annum, to be payable in 60 annual equal installments of principal and interest.

Section 1.03 Assumption of Liabilities. As additional consideration for the Transfer, Benihana agrees to assume all liabilities and obligations of BOT in existence at the Effective Time and incurred by BOT in the ordinary course of business to the extent specifically related to the Restaurants or the Assets (the "Assumed Liabilities") and to indemnify BOT from and against the Assumed Liabilities from and after the Effective Time. The Assumed Liabilities are to be assumed by Benihana without regard to whether such Assumed Liabilities arose prior to or after the Effective Time. Notwithstanding the foregoing, Benihana shall not assume any liability or obligation of BOT relating to federal, state or local taxes measured by income, whether arising in respect of the Reorganization or in the ordinary course of the Business. Benihana shall not assume any other liabilities of BOT except to the extent herein provided.

Section 1.04 Closing of Transfer. The closing of the Transfer will occur at the location and time provided by Section 2.04 for the Closing of the Merger, subject to the satisfaction of the terms and conditions herein provided. At the Closing, BOT shall deliver to Benihana, instruments of transfer (including, without limitation, assignments of leases, an assignment of the Trademarks and a bill of sale covering the Chattels) in form and substance as approved by counsel to Benihana, BOT and BNC. Against such deliveries, Benihana shall deliver the Transfer Consideration and an appropriate instrument or instruments providing for the assumption of the Assumed Liabilities and the related indemnification contemplated by Section 1.03 in form and substance consistent with the terms and conditions hereof and as agreed to by counsel to each of Benihana, BOT and BNC.

ARTICLE II
The Merger

Section 2.01 The Merger. At the Effective Time (as hereinafter defined), BNC shall be merged with Merger Sub and the separate existence and corporate organization of Merger Sub shall cease. BNC shall continue under the laws of the State of Delaware as the surviving corporation, and is sometimes hereinafter referred to as the "Surviving Corporation."

Section 2.02 Delivery and Filing of Certificate of Merger; Effective Time of Merger. The Merger shall be effected on the Closing Date (as hereinafter defined) by the filing of a duly executed Certificate of Merger with the Secretary of State of Delaware in the form of Schedule 2.02 hereto in accordance with the provisions of the Delaware General Corporation Law ("GCL"). The Merger shall be effective at the time and date such certificate is filed with such Secretary of State, which time is sometimes referred to herein as the "Effective Time."

Section 2.03 Effect of the Merger. The Certificate of Incorporation and By-laws of the Surviving Corporation in effect at the Effective Time shall be the Certificate of Incorporation and By-Laws, respectively, of the Surviving Corporation, until amended in accordance with their respective terms or in accordance with applicable provisions of law, and the directors and officers of the Surviving Corporation at the Effective Time shall be the directors and officers of the Surviving Corporation until their respective successors shall have been duly elected and qualified. From and after the Effective Time, the Surviving Corporation shall possess all the rights, privileges, immunities, and franchises, as well as of a public or private nature, and shall be responsible and liable for all debts, liabilities and obligations, of BNC and Merger Sub (the "Constituent Corporations"), all without further act or deed.

Section 2.04 Closing. Subject to the provisions of Sections 8 and 9, the closing (the "Closing") of the transactions contemplated by this Agreement shall take place five business days following the approval of this Agreement by the shareholders entitled to vote thereon of BNC, or on such other date as the parties shall mutually agree upon (the "Closing Date"). The Closing shall take place at the offices of Dornbush Mensch Mandelstam & Schaeffer, 747 Third Avenue, New York, New York.

Section 2.05 Directors and Officers of Benihana. The directors and officers of Benihana at the Effective Time are set forth on Schedule 2.05 hereto. Such directors and officers shall hold office until their respective successors are duly elected and appointed, respectively, and are qualified.

**ARTICLE III
Conversion and Exchange of Shares**

Section 3.01 Manner and Basis of Conversion. The manner and basis of converting or exchanging the shares of stock of each of the Constituent Corporations into or for securities of the Surviving Corporation or of Benihana, as the case may be, shall be as follows:

(a) Each share of Common Stock, par value \$.10 per share, and each share of Class A Common Stock, par value \$.10 per share of BNC issued and outstanding at the Effective Time (collectively, "BNC Stock") shall, by virtue of the Merger and without any action by the holder thereof, be converted into and exchanged for one share of the Common Stock, par value \$.10 and one share of Class A Common Stock, respectively, of Benihana (the "Benihana Stock") (i.e., to the effect that each share of the Common Stock of BNC shall be converted into one share of the Common Stock of Benihana and each share of the Class A Common Stock of BNC shall be converted into one share of the Class A Common Stock of Benihana).

(b) Each share of Merger Sub shall be converted into one share of the Common Stock of the Surviving Corporation.

Section 3.02 Provision for Stock Options and Warrants of BNC. All options to purchase shares of BNC Stock outstanding pursuant to BNC's 1983 Employee Stock Option Plan, 1985 Employee Stock Option Plan, 1994 Employee Stock Option Plan and Directors' Plan (collectively, the "Plans") shall be amended, without any action by the holder of such option or further action by Benihana, so that immediately following the Effective Time, such option shall be converted into an option to purchase an equal number of the corresponding class of common equity (i.e., BNC Common Stock to Benihana Common Stock and BNC Class A Common Stock to Benihana Class A Common Stock) of Benihana. In addition, each of the Plans is hereby amended as of the Effective Time to be Plans of Benihana to the extent such Plan was still in effect as of the Effective Time. Corresponding amendments shall be made to all individually granted options to acquire shares of

BNC Stock and to that certain Warrant dated July 13, 1989 and issued to Southeast Bank N.A. (now known as First Union National Bank of Florida) to the effect that each such convertible security shall represent the right, from and after the Effective Time, to acquire, upon the due conversion or exercise thereof in accordance with its terms, a number of shares of the class of Benihana Stock which corresponds to and equals the class and number of shares of BNC covered by such convertible security immediately prior to the Effective Time. Benihana agrees to assume each of the liabilities and obligations of BNC arising under the Plans, under options outstanding thereunder and under individually granted options or warrants and agrees to reserve from its authorized but unissued shares of Common Stock and Class A Common Stock and to issue shares of its Common Stock and Class A Common Stock as required from and after the Effective Time, subject to the performance of all of the provisions of the convertible security to which such issuance relates, to give effect to the foregoing provisions.

Section 3.03 Exchange of Certificates. After the Effective Time, each holder of an outstanding certificate representing shares of BNC Stock shall be entitled upon surrender of such certificate or certificates to the exchange agent appointed by BNC ("Exchange Agent") to receive therefor a certificate or certificates representing the shares of Benihana Stock for which the shares of BNC Stock theretofore represented by the certificate or certificates so surrendered shall have been converted as aforesaid. Promptly following the Effective Time, the Exchange Agent will send a notice and a transmittal form to each holder of an outstanding certificates or certificates which immediately prior to the Effective Time represented shares of BNC Stock advising such holder of the terms of the exchange effected by the Merger and the procedure for surrendering to the Exchange Agent such certificate or certificates for exchange for one or more certificates representing the shares of Benihana Stock which such holder is entitled to receive pursuant to the terms of the Agreement. Until so surrendered, each such outstanding certificate shall be deemed for all corporate purposes to represent the number of shares of Benihana Stock for which such shares of BNC Stock shall have been exchanged. At the time of filing of the Certificate of Merger pursuant to Section 2.02, the stock transfer books of BNC shall be closed and no transfer of shares of BNC Stock shall thereafter be made.

ARTICLE IV
Representations and Warranties of BOT

BOT represents and warrants to each of Benihana and BNC that, except as set forth in the BOT Disclosure Schedule annexed hereto (the "BOT Disclosure Schedule"):

Section 4.01 Organization. BOT is a corporation duly organized, validly existing and in good standing under the laws of the State of New York and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as now being conducted, except where the failure to be so existing and in good standing or to have such power and authority would not in the aggregate have a material adverse effect on the business operations or financial condition of the Assets or Business taken as a whole. BOT is duly qualified or licensed to do business and is in good standing in each jurisdiction in which the property owned, leased or operated by it or the nature of the business conducted by it makes such qualification or licensing necessary, except in such jurisdictions where the failure to be so duly qualified or licensed and in good standing would not in the aggregate have a material adverse effect on the business, operations or financial condition of the Business or the Assets taken as a whole. BOT has heretofore made available to the Purchaser accurate and complete copies of the Certificate of Incorporation and By-Laws, as currently in effect, of BOT. BOT has no subsidiaries and is not a party to any partnership, agency or joint venture agreement which relates to or affects the Assets or the Business.

Section 4.02 Capitalization. The authorized capital stock of BOT consists of 200 shares of Common Stock, no par value, of which 200 shares (the "BOT Shares"), were issued and outstanding as of the date hereof. All of the issued and outstanding BOT Shares are validly issued, fully paid and non-assessable and free of preemptive rights. Except for the BOT Shares, there are no shares of capital stock of BOT issued or outstanding or any subscriptions, options, warrants, calls, rights, convertible securities or other agreements or commitments of any character obligating BOT to issue, transfer, sell or pay any amount with respect to any of its securities.

Section 4.03 Authority Relative to this Agreement. BOT has full corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by the Board of Directors of BOT and

by the voting trustees of that certain Voting Trust (the "Trust") February 2, 1983, which Trust has the exclusive power and right to vote the BOT Shares with respect to the transactions contemplated hereby and no other corporate proceedings on the part of BOT are necessary to authorize this Agreement or to consummate the transactions so contemplated. This Agreement has been duly and validly executed and delivered by BOT and constitutes a valid and binding agreement of BOT, enforceable against BOT in accordance with its terms.

Section 4.04 No Violations. Except for the filing and notification requirements of state and local agencies having authority over the sale of alcoholic beverages ("Liquor Authorities"), no filing with, and no permit, authorization, consent or approval of, any public body or authority is necessary for the consummation by BOT of the Transfer. Neither the execution and delivery of this Agreement by BOT nor the consummation by BOT of the transactions contemplated hereby nor compliance by BOT with any provisions hereof will (i) conflict with or result in any breach of any provision of the Certificate of Incorporation or By-Laws of BOT, (ii) result in a violation or breach of, or constitute (with or without due notice or lapse of time or both) a default or give rise to any right of termination, cancellation or acceleration under, any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, lease, contract, agreement or other instrument or obligation to which BOT or the Assets or Business may be bound or (iii) violate any order, writ, injunction, decree, statute, rule or regulation applicable to BOT, or any of its properties or assets, except in the case of (ii) or (iii) for violations, breaches or defaults which would not in the aggregate have a material adverse effect on the Assets or the Business (or the prospects thereof) taken as a whole and which would not prevent or delay in any material respect the consummation of the transactions contemplated hereby (each of such effects being referred to as a "Material Adverse Effect," provided that, for the purposes of Article VI hereof, the term "Material Adverse Effect" shall be deemed to refer to the occurrence of any such event with respect to the financial condition, results of operations, business or prospects of BNC).

Section 4.05 Financial Statements. BOT has previously delivered to BNC and Benihana balance sheets of the Benihana of Tokyo Restaurants as at March 28, 1993 and March 27, 1994, together with statements of results of operations and cash flows for the three fiscal years ended March 27, 1994 and the report of Deloitte & Touche, certified public accountants, thereon (the "Restaurant Financial Statements"). In each case, such financial

statements reflect exclusively the financial condition (including the Assumed Liabilities) and results of operations of the Assets and the Business. Each of the audited balance sheets (including the related notes) included in the Restaurant Financial Statements fairly present the consolidated financial position of the Benihana of Tokyo Restaurants as at the respective dates thereof, and the other related statements (including the related notes) included therein fairly present the results of operations and the cash flows of the Benihana of Tokyo Restaurants for the respective fiscal periods covered thereby, in each case in accordance with generally accepted accounting principles consistently applied. The Restaurant Financial Statements also include the unaudited balance sheet (the "Balance Sheet") of the Benihana of Tokyo Restaurants as at October 9, 1994 (subject to the Restatement) and statements of results of operations and cash flows for the seven four-week accounting periods then ended and for the corresponding period of the prior fiscal year. October 9, 1994 is referred to hereinafter as the "Balance Sheet Date." The Balance Sheet fairly presents the consolidated financial position of the Benihana of Tokyo Restaurants as at the date thereof and the statements of operations and cash flows for the period ended on the Balance Sheet Date fairly present the results of operations and cash flows for the Benihana of Tokyo Restaurants for the fiscal periods covered thereby, in each case in accordance with generally accepted accounting principles consistently applied during the periods covered by such statements.

Section 4.06 Properties.

(a) BOT has good and marketable title to, or in the case of leased property, has valid leasehold interests in (which leases are in full force and effect and with respect to which no event of default has occurred and is continuing), all properties and assets (whether real or personal, and whether tangible or intangible) reflected on the Balance Sheet or acquired after the Balance Sheet Date in the ordinary course of business consistent with past practices and except for such defects in title and leasehold interests (including defaults with respect thereto) as would not materially adversely affect (or have a reasonable likelihood of so doing) BOT's right to continue to occupy each of such premises currently leased by BOT on the terms and conditions which currently obtain and to use such premises in the conduct of the Business in the manner currently so used (in each case, a "Material Adverse Restaurant Effect"). Except as disclosed on the Balance Sheet, the Assets are not subject to any security interest, pledge, encumbrance or claim.

(b) There is no violation of any law, regulation or ordinance (including without limitation, laws, regulations or ordinances relating to zoning, environmental, city planning or similar matters) relating to the Assets or the Business except such violations as would not, in the aggregate, have a Material Adverse Effect or, individually or in the aggregate, have a Material Adverse Restaurant Effect.

(c) The Chattels are in good operating order, usable in the ordinary course of the business of the Restaurants as currently conducted and are maintained in accordance with BOT's customary practices, except for ordinary wear and tear.

Section 4.07 No Undisclosed Liabilities. There are no liabilities of BOT of any kind whatsoever, whether accrued, contingent, absolute, determined, determinable or otherwise, and there is no existing condition situation or set of circumstances which could reasonably result in such a liability, other than:

(a) liabilities disclosed or provided for in the Balance Sheet or in the notes thereto;

(b) liabilities incurred in the ordinary course of business consistent with past practices since the Balance Sheet Date;

(c) liabilities arising under this Agreement and in connection with the transactions contemplated hereby;

(d) liabilities which would not, in the aggregate, have a Material Adverse Effect or Material Adverse Restaurant Effect; and

(e) liabilities disclosed in the BOT Disclosure Schedule.

Section 4.08 Litigation. There are no actions, suits, or proceedings pending against, or to the knowledge of BOT, threatened against BOT before any court or arbitrator or any governmental body, agency or official.

Section 4.09 Taxes. BOT has (i) duly filed with the appropriate federal, state and local governments or governmental agencies, all federal, state and local income tax returns and declarations of estimated tax and all other material tax returns and reports required to be filed and has paid in full when due all taxes, licenses and fees, including interest and penalties,

shown to be due thereon, and (ii) has established reserves in the Balance Sheet that, in the aggregate, are adequate for the payment of taxes not yet due with respect to BOT's operations through the Balance Sheet Date. All liabilities or claims for federal, state and local taxes asserted against BOT have either been paid or adequately provided for on the Balance Sheet. The federal income tax returns required to be filed by BOT have either been examined by the Internal Revenue Service or the period during which any assessments may be made by the Internal Revenue Service has expired without waiver or extension and any deficiencies or assessments asserted in writing by the Internal Revenue Service have either been paid, settled or adequately provided for in the Balance Sheet. BOT has not filed a consent pursuant to Section 341(f) of the Internal Revenue Code of 1986 (the "Code"). BOT has not agreed and has not been required to make any adjustment under Section 481(a) of the Code by reason of a change of accounting or otherwise. BOT has withheld from employees and paid over to the proper government authorities all amounts required to be so withheld and paid over.

Section 4.10 Related Transactions. Neither BOT nor any of the Assets are bound by, or subject to, any contract, arrangement or understanding with any shareholder of BOT (or any family member or affiliate of any such shareholder) pursuant to which such shareholder or affiliate provides or causes to be provided any material products, services, equipment, facilities or similar items and there are no liabilities, contracts, or other agreements between BOT and such shareholders or affiliates.

Section 4.11 Employee Benefits. The BOT Disclosure Schedule lists each "employee benefit plan" (within the meaning of Section 3(3) of the Employment Retirement Income Security Act of 1974, as amended ("ERISA")), medical reimbursement, life, disability, severance and all other employee benefit plans, whether or not reduced to writing, to which BOT has any present or future liability to employees involved in the business of the Restaurants. Each such Plan has been established and administered in accordance with its respective terms and all applicable laws in all material respects. BOT is not a member of any "controlled group" (within the meaning of Sections 414(b), (c), (m) or (o) of the Internal Revenue Code of 1986) and has not incurred any "accumulated funding deficiency" as such term is defined in Section 302 of ERISA.

Section 4.12 Material Contracts. The BOT Disclosure Schedule lists all material contracts, agreements, arrangements or understandings by which BOT or the Assets are bound in respect

of the Restaurants or the Business and which involve payments, goods or services having a value of \$25,000 or more per annum. Each such contract or agreement is in full force and effect and constitutes a legal, valid and binding obligation of each party thereto, enforceable in accordance with its terms. Neither BOT nor any other party to any such agreement is in breach or default under any such contract or agreement except for any such breach or default which would not, individually or collectively, have a Material Adverse Effect.

Section 4.13 Insurance. The BOT Disclosure Schedule sets forth a true, correct and complete list of all policies of insurance applicable to the Restaurants, the Assets or the Business. All such policies are in full force and effect and provide adequate coverage for the operations, properties and assets comprising the Restaurants and the Business.

Section 4.14 Absence of Certain Changes. Except for (i) transactions, changes, events, obligations and liabilities contemplated by this Agreement; (ii) transactions, changes, events, obligations and liabilities disclosed in the financial statements referred to in Section 4.05; (iii) transactions, changes, events, obligations and liabilities which individually or in the aggregate, have not had a Material Adverse Effect or a Material Adverse Restaurant Effect, since the Balance Sheet Date:

(a) there have been no changes in the business, condition (financial or otherwise), operations, manner of conduct of business or operations, assets or liabilities of BOT, other than changes in the ordinary course of business;

(b) no liability or obligation of BOT has been paid, discharged or incurred other than in the ordinary course of business;

(c) there has been no damage, destruction, or loss, whether or not covered by insurance, materially adversely affecting the business or property of BOT;

(d) BOT has not sold, mortgaged, pledged or been subjected to any lien or other encumbrance or otherwise transferred any material assets or properties used in the conduct of the Business; and

(e) BOT has not entered into any transaction other than in the ordinary course of business.

Section 4.15 Absence of Certain Business Practices.

Neither BOT nor any of its affiliates has (i) received, directly or indirectly, any rebates, payments, commissions, promotional allowances or any other economic benefits, regardless of their nature or type, from any customer, supplier, trading company, shipping company, governmental employee or other person with whom BOT has done business directly or indirectly; or (ii) directly or indirectly, given or agreed to give any gift or similar benefit to any customer, supplier, trading company, shipping company, governmental employee or other person who is or may be in a position to help or hinder the business of BOT (or assist BOT in connection with any actual or proposed transaction) which (a) may subject BOT to any damage or penalty in any civil, criminal or governmental litigation or proceeding, (b) if not given in the past, may have had an adverse effect on the results of operations, assets, business operations or prospects of the Business or (c) if not continued in the future, may adversely affect the results of operations, assets, business, operations or prospects of the Business or may subject the owner of the Assets or the Business to suit or penalty in any private or governmental litigation or proceeding.

Section 4.16 Disclosure. No representation or warranty of BOT contained herein or in the BOT Disclosure Schedule contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made herein or therein, in light of the circumstances under which they are made, accurate, complete and not misleading.

**ARTICLE V
Representations and Warranties
of Benihana**

Section 5.01 Due Organization. Benihana is duly organized under the laws of the State of Delaware and has all requisite corporate power to own, lease and operate its properties.

Section 5.02 Certificate of Incorporation and By-Laws. Schedule 5.02 annexed hereto sets forth a true, correct and complete copy of the Certificate of Incorporation and By-Laws of Benihana.

Section 5.03 Authorization. This Agreement has been duly and validly authorized by the Board of Directors of Benihana, has been duly and validly executed and delivered by

Benihana and constitutes the valid and binding agreement of Benihana. The Certificate of Designation annexed hereto as Schedule 5.03 and which sets forth the rights and preferences of the Preferred Stock has been duly and validly adopted by the Board of Directors of Benihana.

Section 5.04 Capitalization. The authorized capital stock of Benihana consists of 12,000,000 shares of Common Stock, par value \$.10, 20,000,000 shares of Class A Common Stock, par value \$.10, and 5,000,000 shares of Preferred Stock. Except for the shares of Benihana Stock to be issued in the Transfer or to be issued or reserved for issuance pursuant to the Merger, no shares of any class of equity of Benihana are issued and outstanding, except one share issued to BOT at the time of incorporation of Benihana, which share will be cancelled as of the Effective Time. No options, warrants, notes or other securities of Benihana are issued or outstanding.

Section 5.05 Absence of Liabilities. Benihana is a newly-formed corporation being organized pursuant to this Agreement. Benihana has no liabilities of any nature whatsoever except to the extent arising out of this Agreement or the transactions contemplated thereby.

ARTICLE VI
Representations and Warranties
of BNC

BNC represents and warrants to each of Benihana and BOT that, except as set forth in the BNC Disclosure Schedule annexed hereto (the "BNC Disclosure Schedule") as follows:

Section 6.01 Organization. BNC is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as now being conducted, except where the failure to be so organized, existing and in good standing or to have such power or authority would not have a Material Adverse Effect. BNC has heretofore made available to Benihana complete and correct copies of its Certificate of Incorporation and By-Laws, as in effect on the date hereof.

Section 6.02 Authority Relative to this Agreement. BNC has full corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated

hereby. BNC's Board of Directors, acting on the recommendation of a Special Committee (the "Special Committee") of the Board of Directors composed of directors who are not employees of the Company and are otherwise "disinterested" within the meaning of the GCL, has authorized the transactions contemplated herein and have determined that the Reorganization is in the best interests of BNC and its shareholders. BNC further represents that Josephthal, Lyon & Ross, Incorporated (the "Financial Advisor") has delivered to the Special Committee its opinion that the Reorganization is fair to BNC's public shareholders (other than BOT and its affiliates) from a financial point of view. No other corporate proceedings on the part of BNC are necessary to authorize this Agreement or to consummate the transactions so contemplated, except for the approval of BNC's shareholders referred to in Section 7.02 hereof. Subject to the approval of BNC's shareholders, this Agreement has been duly and validly executed and delivered by BNC and constitutes a valid and binding agreement of BNC, enforceable in accordance with its terms.

Section 6.03 No Violations. Except for applicable requirements of the Securities Exchange Act of 1934 (the "Exchange Act"), the Securities Act of 1933 (the "Securities Act") and the filing and recordation of a Certificate of Merger as required by the GCL, and any filings or notification required by Liquor Authorities, no filing with, and no permit, authorization, consent or approval of, any public body or authority is necessary for the consummation by BNC of the transactions contemplated by this Agreement, except for filings, permits, authorizations, consents or approvals, the failure to obtain which would not have a Material Adverse Effect. Neither the execution and delivery of this Agreement by BNC nor the consummation by BNC of the transactions contemplated hereby nor compliance by it with any of the provisions hereof will (i) conflict with or result in any breach of any provision of its Certificate of Incorporation or By-Laws, (ii) result in a violation or breach of, or constitute (with or without due notice or lapse of time or both) a default or give rise to any right to termination, cancellation or acceleration under, any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, contract, agreement or other instrument or obligation to which it is a party or by which it or any of its properties or assets may be bound or (iii) violate any order, writ, injunction, decree, statute, rule or regulation applicable to it or any of its properties or assets, except in the case of (ii) and (iii) for violations, breaches or defaults which are not in the aggregate material to the business, operations or

financial condition of BNC and which would not prevent or delay in any material respect the transactions contemplated hereby.

Section 6.04 Public Documents; Compliance.

(a) BNC has heretofore delivered to Benihana a copy of its Annual Reports on Form 10-K pursuant to Sections 13 or 15(d) of the Exchange Act for the fiscal years ended March 27, 1994 and March 28, 1993, and all other registration statements and reports required to be or otherwise filed by it since March 27, 1994 with the SEC pursuant to the Securities Act or the Exchange Act (collectively, the "Public Documents"). None of the Public Documents contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary in order to make the statements therein not misleading (in each case as of the date hereof). Included or incorporated by reference in the Public Documents are, without limitation, the consolidated balance sheets of BNC and its consolidated subsidiaries as at March 27, 1994 and March 28, 1993 and the related consolidated statements of income and retained earnings and changes in financial position for each of the respective fiscal years then ended, certified by Deloitte & Touche, whose opinions thereon are included therewith (the "Audited BNC Financial Statements") and the unaudited consolidated balance sheet of BNC and its consolidated subsidiaries as at October 9, 1994, together with the related unaudited consolidated statements of income and retained earnings and changes in financial positions for the seven four-week fiscal periods then ended (the "Unaudited BNC Financial Statements"). The Audited Financial Statements and the Unaudited Financial Statements were prepared in accordance with generally accepted accounting principles consistently applied throughout the periods indicated and fairly present the consolidated financial position, results of operations, retained earnings and changes in financial positions of BNC and its consolidated Subsidiaries as at the respective dates and for the respective periods stated therein in each case in accordance with generally accepted accounting principles consistently applied.

(b) Each class of the BNC Stock is registered under the Exchange Act. BNC has been subject to the periodic reporting requirements of Section 13 or 15(d) of the Exchange Act for at least the 36 months next preceding the date of this Agreement. BNC has filed and will file all reports required to be filed by it thereunder through the date hereof and the Effective Time.

Section 6.05 Properties.

(a) BNC and its subsidiaries have good and marketable title to, or in the case of leased property have valid leasehold interests in (which leases are in full force and effect and with respect to which no event of default has occurred and is continuing), all properties and assets (whether real or personal, and whether tangible or intangible) reflected on the BNC Balance Sheet or acquired after the BNC Balance Sheet Date in the ordinary course of business consistent with past practices and except for such defects in title and leasehold interests (including defaults with respect thereto) as would not materially adversely affect (or have a reasonable likelihood of so doing) BNC's right to continue to occupy each of such premises currently leased by BNC on the terms and conditions which currently obtain and to use such premises in the conduct of the Purchaser's business in the manner currently so used (in each case, a "Material Adverse Restaurant Effect").

(b) There is no violation of any law, regulation or ordinance (including, without limitation, laws, regulations or ordinances relating to zoning, environmental, city planning or similar matters) relating to the properties and assets of BNC and its subsidiaries except such violations as would not, in the aggregate, have a Material Adverse Restaurant Effect.

Section 6.06 No Undisclosed Liabilities. There are no liabilities of BNC of any kind whatsoever, whether accrued, contingent, absolute, determined, determinable or otherwise, and there is no existing condition, situation or set of circumstances which could reasonably result in such a liability, other than:

(a) liabilities disclosed or provided for in the BNC Balance Sheet or in the notes thereto;

(b) liabilities incurred in the ordinary course of business consistent with past practices since the BNC Balance Sheet Date;

(c) liabilities arising under this Agreement or in connection with the consummation of the transactions contemplated hereby; and

(d) liabilities which would not, in the aggregate, have a Material Adverse Effect or a Material Adverse Restaurant Effect.

Section 6.07 Litigation. There are no actions, suits or proceedings pending against, or to the knowledge of BNC, threatened against BNC before any court or arbitrator or any governmental body, agency or official.

Section 6.08 Taxes. BNC has (i) duly filed with the appropriate federal, state and local governments or governmental agencies, all federal, state and local income tax returns and declarations of estimated tax and all other material tax returns and reports required to be filed and have paid in full when due all taxes, licenses and fees, including interest and penalties, shown to be due thereon, and (ii) has established reserves in the BNC Balance Sheet that, in the aggregate, are adequate for the payment of taxes not yet due with respect to BNC's operations through the BNC Balance Sheet Date. All liabilities or claims for federal, state and local taxes asserted against BNC have either been paid or adequately provided for on the BNC Balance Sheet. The federal income tax returns required to be filed by BNC have either been examined by the Internal Revenue Service or the period during which any assessments may be made by the Internal Revenue Service has expired without waiver or extension and any deficiencies or assessments asserted in writing by the Internal Revenue Service have either been paid, settled or adequately provided for in the Balance Sheet. Neither BNC nor any subsidiary has filed a consent pursuant to Section 341(f) of the Internal Revenue Code of 1986 (the "Code"). BNC has not agreed and has not been required to make any adjustment under Section 481(a) of the Code by reason of a change of accounting or otherwise. BNC has withheld from employees and paid over to the proper governmental authorities all amounts required to be so withheld and paid over.

Section 6.09 Absence of Certain Changes. Except for (i) transactions, changes, events, obligations and liabilities contemplated by this Agreement; (ii) transactions, changes, events, obligations and liabilities disclosed in the financial statements referred to in Section 6.04; (iii) transactions, changes, events, obligations and liabilities which individually or in the aggregate, have not had a Material Adverse Effect or a Material Adverse Restaurant Effect, since the Balance Sheet Date:

(a) there have been no changes in the business, condition (financial or otherwise), operations, manner of conduct of business or operations, assets or liabilities of BNC, other than changes in the ordinary course of business;

(b) no liability or obligation of BNC has been paid, discharged or incurred other than in the ordinary course of business;

(c) there has been no damage, destruction, or loss, whether or not covered by insurance, materially adversely affecting the business or property of BNC;

(d) BNC has not sold, mortgaged, pledged or been subjected to any lien or other encumbrance or otherwise transferred any material assets or properties used in the conduct of the Business; and

(e) BNC has not entered into any transaction other than in the ordinary course of business.

Section 6.10 Commitment for Financing. BNC has received a written commitment (the "Commitment") from First Union National Bank of Florida to provide aggregate credit facilities (the "Financing") of not less than \$9,900,000 which will be available to BNC, as the Surviving Corporation, as at the Effective Time. A true and correct copy of the commitment has been delivered to Benihana and to BOT. The commitment is subject to the execution of definitive financing agreements and the fulfillment of conditions thereunder. BNC shall use all reasonable efforts to obtain the Financing including all reasonable efforts to fulfill the conditions referred to above, provided that such financing continues to be offered on terms no less favorable to BNC than reflected in the Commitment submitted to BNC as of the date hereof.

Section 6.11 Disclosure. No representation or warranty of BNC contained herein or in the BNC Disclosure Schedule contains an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made herein or therein, in light of the circumstances under which they are made, accurate, complete and not misleading.

**ARTICLE VII
Covenants**

Each of BOT, BNC and Benihana covenant and agree as follows:

Section 7.01 Registration Statement; Proxy Statement.

As soon as practicable hereafter, Benihana shall file with the SEC a Registration Statement on Form S-4 (the "Registration Statement") covering the issuance and sale of the Benihana Stock to be issued or reserved for issuance as provided in this Agreement. Benihana shall use its best efforts to cause such Registration Statement to become effective. The Registration Statement shall include a proxy statement (the "Proxy Statement") for a special meeting of the shareholders of BNC for the purpose of voting on and approving this Agreement and the transactions contemplated hereby. Benihana, BOT and BNC agree to cooperate in connection with the preparation and filing of the Registration Statement and the Proxy Statement contained therein. Without limiting the generality of the foregoing, BOT and BNC agree to furnish Benihana and its counsel and accountants promptly with such information as they may reasonably request in order to complete the preparation and filing of the Registration Statement, and any amendments thereto. BNC and BOT covenant, respectively, that the Proxy Statement, when mailed to shareholders of BNC, as it relates to BNC and BOT, respectively, shall not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

Each of BNC and BOT (the "Indemnitor") agrees to hold the other and Benihana (the "Indemnitee") harmless and to defend and indemnify the Indemnitee against, any and all loss, liability, damage or cost arising out of any untrue statement of a material fact contained in the Registration Statement or the Proxy Statement or omissions to state a material fact required to make the statements contained therein not misleading in light of the circumstances under which they were made, but only insofar as such untrue statement or omission relates to information furnished or required to be furnished for use in such filing or document by the Indemnitor.

Section 7.02 Shareholders' Meeting. BNC shall distribute the Proxy Statement and other proxy materials to its shareholders and give notice of and duly call, a meeting of its shareholders at the earliest practicable date following Benihana's advice that the Registration Statement has been declared effective. BNC shall use its best efforts to obtain the approval of the Merger by its respective shareholders. BOT agrees to vote any shares of BNC Stock which it owns in favor of the Merger.

Section 7.03 Conduct of the Business of BNC and BOT.

Except as contemplated by this Agreement, during the period from the date of this Agreement to the Effective Time, each of BNC and BOT will each conduct its respective operations according to its ordinary course of business and consistent with past practice, and will each use its reasonable efforts to preserve intact its business organization, to keep available the services of its officers and employees and to maintain satisfactory relationships with licensors, landlords, licensees, suppliers, contractors, distributors, customers and others having business relationships with it. Without limiting the generality of the foregoing, and except as otherwise expressly provided in this Agreement, prior to the Effective Time, neither BNC nor BOT will, without the prior written consent of the other:

(a) amend its Certificate of Incorporation or By-Laws;

(b) authorize for issuance, issue, sell, deliver or agree or commit to issue, sell or deliver (whether through the issuance or granting of options, warrants, commitments, subscriptions, rights to purchase or otherwise) any shares of stock of any class or any other securities, except as required by employee stock option agreements or other options, warrants or convertible securities outstanding on the date hereof;

(c) split, combine or reclassify any shares of its capital stock, declare, set aside or pay any dividend or other distribution (whether in cash, stock or property or any combination thereof) in respect of its capital stock, or redeem or otherwise acquire any of its securities or any securities of its subsidiaries;

(d) except in the ordinary course of business consistent with past practices or in connection with the financing contemplated hereby (i) incur or assume any long-term or short-term debt; (ii) assume, guarantee, endorse or otherwise become liable or responsible (whether directly, contingently or otherwise) for the obligations of any other person, except wholly-owned subsidiaries; or (iii) make any loans, advances or capital contributions to, or investments in, any other person.

(e) except pursuant to written agreements in effect on the date hereof, acquire, sell, lease, create liens with respect to or dispose of any material assets outside the ordinary course of business or enter into any material commitment or transaction outside the ordinary course of business;

(f) except as may be required by law, take any action to initiate, terminate or amend any of its employee benefit plans; and

(g) take, or agree in writing or otherwise to take, any of the foregoing actions or any action which would make any representation or warranty of BNC or BOT contained in this Agreement untrue or incorrect in any materials respect as of the date when made or as of a future date.

Section 7.04 Access to Information.

(a) Between the date of this Agreement and the Effective Time, each of BNC and BOT will give the other and Benihana and their authorized representatives, and potential sources of financing for the transactions contemplated hereby and their authorized representatives, access to its respective facilities, books and records as the other may reasonably request, will permit the other to make such inspections as it may reasonably require and will cause its officers and those of its subsidiaries to furnish the other with such financial and operating data and other information with respect to its business and properties as the other may from time to time reasonably request.

(b) Each of BNC, BOT and Benihana will hold and will cause its affiliates, associates and representatives to hold in strict confidence all documents and information concerning the other furnished in connection with the transactions contemplated by this Agreement (except to the extent that such information can be shown to have been (i) in the public domain through no fault of the disclosing party, or (ii) later lawfully acquired by the disclosing party (or its affiliates) from other sources and will not release or disclose such information to any other person, except in connection with this Agreement to (i) its representatives and (ii) financing sources, after such financing sources have agreed to be bound by the terms of confidentiality agreements reasonably acceptable to the party whose information is the subject of such disclosure (it being understood that such persons shall be informed by Benihana, BNC or BOT of the confidential nature of such information and shall be directed by BNC or BOT to treat such information confidentially); provided that each party and its representatives may provide such documents or information in response to judicial or administrative process or applicable governmental laws, rules, regulations, order or ordinances, but only that portion of the documents or information which, on the advice of counsel, is

legally required to be furnished. If the transactions contemplated by this Agreement are not consummated, such confidence shall continue to be maintained in accordance with the terms and conditions above set forth.

Section 7.05 Best Efforts. Subject to the terms and conditions herein provided, each of the parties hereto agrees to use its best efforts to take, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate and make effective the transactions contemplated by this Agreement. In case at any time after the Effective Time any further action is necessary or desirable to carry out the purposes of this Agreement, the proper officers and directors of each party to this Agreement shall take all such necessary action.

Section 7.06 Consents. BNC, BOT and Benihana each will use its best efforts to obtain consents of all third parties and governmental authorities necessary to the consummation of the transactions contemplated by this Agreement.

Section 7.07 Public Announcements. BNC and BOT will consult with each other before issuing any press release or otherwise making any public statements with respect to the Reorganization and shall not issue any such press release or make any such public statement prior to mutual agreement upon the text thereof, except as may be required by law.

Section 7.08 Notification of Certain Matters. BNC and BOT agree to give prompt notice to each other of (i) the occurrence, or failure to occur, of any event which occurrence, or failure to occur would be likely to cause any representation or warranty contained in this Agreement to be untrue or inaccurate in any material respect at any time from the date hereof to the Effective Time (including any such occurrence or failure of which either party is or becomes aware with respect to the other) and (ii) any material failure on its part to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied by it hereunder; provided, however, that the delivery of any notice pursuant to this Section 7.08 shall not limit or otherwise affect the remedies available hereunder to the party receiving such notice.

Section 7.09 Authorization of Preferred Stock. On or prior to the Effective Time, the Board of Directors of Benihana shall adopt a resolution authorizing the issuance of the Preferred Stock and Benihana shall cause to be filed with the

Secretary of State of the State of Delaware a Certificate of Designation in form and substance as annexed hereto as Schedule B to authorize the issuance of the Preferred Stock.

Section 7.10 Trademarks. Each of BOT and Benihana acknowledge that, from and after the Effective Time, Benihana will own the Trademarks in the Territory and BOT will continue to own the Trademarks outside of the Territory. Accordingly, each of BOT and Benihana agree that, without the prior written consent of the other, neither will make any use of the Trademarks which could reasonably be expected to reduce the value or usefulness of the Trademarks to the other party. In addition, each of BOT and Benihana shall be responsible for the proper registration and maintenance of the Trademarks and the prosecution of infringements or potential infringements of the Trademarks in the territories where such party has an interest in the Trademarks. Each of BOT and Benihana agrees to notify the other promptly of any infringement or potential infringement of the Trademarks of which such party becomes aware and to cooperate with the other party in any action taken to prosecute any such infringement. The obligations of this Section shall survive the Closing for an indefinite period.

ARTICLE VIII
Conditions to Consummation
of the Reorganization

Section 8.01 Conditions to Consummation of the Reorganization. The obligations of BNC to consummate the Merger are, at BNC's option, subject to the fulfillment of the conditions hereinafter set forth:

(a) Benihana, BOT and Merger Sub shall have performed and complied with all of the conditions and agreements required by this Agreement to consummate the Transfer and the Merger to be performed or complied with by them prior to the Effective Time in all material respects.

(b) The representations and warranties of BOT and Benihana contained herein shall have been true and correct in all material respects as of the date hereof and shall be true and correct as of the Closing Date and BNC shall have received a certificate of the President of each of BOT and Benihana to such effect.

(c) BNC's shareholders shall have approved the Merger in accordance with GCL and the Certificate of Incorporation and By-Laws of BNC.

(d) Benihana shall have executed and delivered written employment agreements (the "Employment Agreements") with each of Rocky H. Aoki and Joel A. Schwartz identical in form and substance to the written employment agreements to which such officers are parties with BNC, but with Benihana as the "Employer" and with such modified terms and conditions as set forth on Schedule 8.01(d).

(e) BNC shall have obtained the Financing on terms and conditions no less favorable to BNC than provided by the Commitment.

(f) There shall have been no material adverse change in the business, properties or financial condition of BOT from such condition on the date hereof.

(g) On the Closing Date (i) there shall be no injunction, restraining order, or order of any nature issued by a court of competent jurisdiction which directs that any transaction contemplated by this Agreement shall not be consummated and (ii) there shall be no suit, action, investigation or other proceeding pending or threatened by any governmental agency or private party seeking to restrain or prohibit the consummation of any material transaction contemplated hereby or the obtaining of any material amount of damages from any party hereto or any officer or director of any such party, in connection with the consummation of the Reorganization, the Transfer or the Merger.

(h) BNC shall have received an opinion from Deloitte & Touche, reasonably satisfactory to BNC, to the effect that:

(i) the Merger will qualify as a reorganization within the meaning of Section 368(a)(2)(E) of the Internal Revenue Code of 1986; and

(ii) no gain or loss will be recognized by BNC or by the shareholders of BNC in respect of the consummation of the Merger.

(i) The number of shares of BNC Common Stock and BNC Class A Stock as to which the holders thereof shall have furnished written demand for appraisal in accordance with Section 362 of the GCL shall not exceed 5% of the aggregate number of shares of BNC Common Stock and BNC Class A Stock outstanding, considered for this purpose as one class.

(j) Benihana and BNC shall have received all Third Party Consents (including any required consents of Liquor Authorities) necessary to (x) operate the Business and own the Assets and (y) continue to operate the business of BNC in substantially the manner so operated as of the date hereof, in each case from and after the Effective Time.

(k) The Special Committee shall have received the written opinion of the Financial Advisor to the effect that the Reorganization is fair, from a financial point of view, to the public shareholders of BNC (other than BOT and its affiliates) and the Special Committee shall not have withdrawn its recommendation to the Board of Directors of BNC to approve the Reorganization.

(l) Shares of Benihana Stock to be issued or reserved for issuance in the Reorganization shall have been accepted for quotation on the Automated Quotation System of the National Association of Securities Dealers ("NASDAQ").

(m) BOT shall have executed and delivered a counterpart of the License Agreement referred to in Section 8.02(d).

(n) BOT and Benihana shall be ready, willing and able to consummate the closing of the Transfer at the time of the Closing.

Section 8.02 Conditions to the Obligations of BOT and Benihana. The obligations of BOT and Benihana are, at the option of BOT, subject to the fulfillment of the conditions hereinafter set forth:

(a) BNC shall have performed and complied with all of the conditions and agreements required by this Agreement to be performed or complied with by it prior to the Effective Time in all material respects.

(b) The representations and warranties of BNC contained herein shall have been true and correct in all material respects as of the date hereof and shall be true and correct as of the Closing Date and BOT shall have received a certificate of the President of BNC to such effect.

(c) BNC's shareholders shall have approved the Merger in accordance with the GCL and a Certificate of Designation shall have been filed as an amendment to the Certificate of Incorporation of Benihana authorizing the issuance of shares of Preferred Stock required to be issued in accordance with the provisions of Section 1.05 hereof.

(d) Benihana shall have entered into a license agreement (the "License Agreement") with BOT granting BOT rights to use the Trademarks in the Territory in connection with the "Benihana of Tokyo" Restaurant located in Honolulu, Hawaii and granting BOT perpetual, exclusive rights to own or operate "Benihana of Tokyo" restaurants in the State of Hawaii, subject only to the terms and conditions of the franchise agreement covering the Maui restaurant to which BNC is a party and having the terms and conditions set forth on Schedule 8.02(d).

(e) Benihana shall have executed and delivered the Employment Agreements.

(f) There shall have been no material adverse change in the business, properties or financial condition of BNC from such condition on the date hereof.

(g) On the Closing Date, (i) there shall be no injunction, restraining order, or order of any nature issued by a court of competent jurisdiction which directs that any transaction contemplated by this Agreement shall not be consummated and (ii) there shall be no suit, action, investigation or other proceeding pending or threatened by any governmental agency or private party seeking to restrain or prohibit the consummation of any material transaction contemplated hereby or the obtaining of any material amount of damages from any party hereto or any officer or director of any such party, in connection with the consummation of the Reorganization, the Merger or the Transfer.

(h) The number of shares of BNC Common Stock and BNC Class A Stock as to which the holders thereof shall have furnished written demand for appraisal in accordance with Section 262 of the GCL shall not exceed 5% of the aggregate

number of shares of BNC Common Stock and BNC Class A Stock outstanding, considered for this purpose as one class.

(i) Shares of Benihana Stock to be issued or reserved for issuance in the Reorganization shall be approved for quotation on NASDAQ.

(j) Benihana, BNC and Merger Sub shall be ready, willing and able to consummate the Merger at the Closing.

ARTICLE IX
Termination; Amendment; Waiver

Section 9.01 Termination. This Agreement may be terminated and the Reorganization contemplated hereby may be abandoned at any time notwithstanding approval thereof by the shareholders of BNC, but prior to the Effective Time:

(a) by mutual written consent of BNC and BOT;

(b) by BNC or BOT if the Effective Time shall not have occurred on or before May 30, 1995; provided, however, that the right to terminate this Agreement under this Section 9.01(b) shall not be available to any party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of the Effective Time to occur on or before such date; or

(c) by BNC or BOT if any United States or state governmental authority or other agency or commission or United States or state court of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any statute, rule, regulation, injunction or other order which is in effect and is permanent and non-appealable and has the effect of prohibiting consummation of the Transfer or the Merger or the provision of the financing necessary for such transactions.

(d) by the Special Committee acting on behalf of
BNC:

(i) if, prior to the Effective Time, the Board of Directors of BNC determines that it will not recommend approval of the Merger by the stockholders of the BNC (or if such recommendation is withdrawn); or

(ii) in the event of a breach by BOT of any material term or condition hereof.

Any unilateral termination of this Agreement permitted by this Section 9.01 shall be effective upon the giving of the written notice by the terminating party in the manner provided herein.

Section 9.02 Effect of Termination. In the event of the termination and abandonment of this Agreement pursuant to Section 9.01 hereof, this Agreement shall forthwith become void and have no effect, without any liability on the part of any party or its directors, officers or shareholders. Nothing contained in this Section 9.02 shall relieve any party from liability for any breach of this Agreement; provided that BNC shall not have any liability for breaches of this Agreement covered by any action or failure to act of BOT or the Sole Stockholder.

Section 9.03 Amendment. This Agreement may be amended by action taken by BNC and BOT at any time before or after adoption of this Agreement by the shareholders of BNC but, after any such approval, no amendment shall be made which changes the amount or form of consideration to be paid in the Transfer or the Merger or adversely affects the rights of BNC's shareholders hereunder without the approval of such shareholders. It is acknowledged and agreed that an amendment which extends the time by which the Effective Time must occur in order to obtain any required third party or governmental consent or to comply with any judicial or administrative ruling or order shall not be deemed to adversely affect such rights. This Agreement may not be amended except by an instrument in writing signed on behalf of the parties.

Section 9.04 Extension; Waiver. At any time prior to the Effective Time, the parties may (i) extend the time for the performance of any of the obligations or other acts of the other party hereto, (ii) waive any inaccuracies in the representations and warranties contained herein or in any document, certificate or writing delivered pursuant hereto or (iii) waive compliance with any of the agreements or conditions contained herein. Any agreements on the part of any party to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party.

Section 9.05 Survival of Representations and Warranties. The representations and warranties of each of the parties hereto shall survive the Effective Time for a period of 12 months, at which time they shall expire and be of no further force or effect.

**ARTICLE X
Miscellaneous**

Section 10.01 Brokerage Fees and Commissions. Except as set forth in the terms of the engagement letter entered into with the Financial Advisor and the written commitment letter from First Union National Bank of Florida, in each case related to transactions contemplated hereby, BNC hereby represents and warrants to BOT with respect to BNC and BOT hereby represents and warrants to BNC with respect to the BOT, that no person or entity is entitled to receive from BNC or BOT, respectively, any investment banking, brokerage or finder's fee or fees for financial consulting or advisory services in connection with this Agreement or the transactions contemplated hereby.

Section 10.02 Entire Agreement; Assignment. This Agreement (including any other agreements referred to herein) (a) constitutes the entire agreement among the parties with respect to the subject matter hereof and supersedes all other prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof and (b) shall not be assigned by operation of law or otherwise, provided that Benihana may assign its rights to receive the Assets in the Transfer to any subsidiary of Benihana.

Section 10.04 Validity. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

Section 10.05 Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given (and shall be deemed to have been duly given upon receipt) by delivery in person, by cable, telegram or telex, or by registered or certified mail (postage prepaid, return receipt requested) to the respective parties as follows:

If to BNC:

Benihana National Corp.
8685 Northwest 53rd Terrace
Miami, Florida 33166
Attn: Joel A. Schwartz, President
Facsimile No.: (305) 594-9492

With copies to:

Dornbush Mensch Mandelstam &
Schaeffer
747 Third Avenue - 11th Floor
New York, New York 10017
Attn: Darwin C. Dornbush, Esq.
Facsimile No.: (212) 753-7673

John E. Abdo
Wellington Construction & Realty,
Inc.
1350 Northeast 56th Street
Fort Lauderdale, Florida 33334
Facsimile No.: (305) 491-2194

Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
Museum Tower, Suite 2200
150 West Flagler Street
Miami, Florida 33130
Attn: Alison W. Miller, Esq.
Facsimile No.: (305) 789-3395

If to the Company
or Benihana:

Benihana of Tokyo, Inc.
8685 Northwest 53rd Terrace
Miami, Florida 33166
Attn: Rocky H. Aoki
Facsimile No.: (305) 594-9492

With a copy to:

Baker & McKenzie
805 Third Avenue
New York, New York 10022
Attn: Michael Burrows, Esq.
Facsimile No.: (212) 751-9133

or to such other address as the person to whom notice is given
may have previously furnished to the others in writing in the
manner set forth above.

Section 10.06 Governing Law. This Agreement shall be governed by and construed in accordance with the law of the State of New York, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws, provided, however, that the consummation and effectiveness of the Merger shall be governed by and construed in accordance with the laws of the GCL.

Section 10.07 Descriptive Headings. The descriptive headings herein are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

Section 10.08 Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of each party hereto, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other person any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement.

Section 10.09 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same agreement.

Section 10.10 Specific Performance. The parties hereto agree that irreparable damage would occur in the event any of the provisions of this Agreement were not to be performed in accordance with the terms hereto and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy at law or equity.

IN WITNESS WHEREOF, the undersigned have executed this Agreement and Plan of Reorganization as of this 29th day of December, 1994 and the Amendment hereto as of the 17th day of March, 1995.

BENIHANA NATIONAL CORP.

By: /s/ Joel A. Schwartz
Joel A. Schwartz,
President

BENIHANA OF TOKYO, INC.

By: /s/ Rocky H. Aoki
Rocky H. Aoki, President

BENIHANA INC.

By: /s/ Rocky H. Aoki
Rocky H. Aoki,
Chairman of the Board

BNC MERGER SUB

By: /s/ Joel A. Schwartz
Joel A. Schwartz,
President