

## FRANCHISE DISCLOSURE DOCUMENT



**AMG Franchises LLC**  
Minnesota limited liability company  
7575 Golden Valley Rd, Ste 340  
Golden Valley, MN 55427  
612-710-9779  
admin@ciaohg.com  
theaftermidnightgroup.com

Cowboy Jack's Restaurants are restaurants featuring a variety of craft beer selections and high-quality food and beverage products in a distinctive, country western themed environment.

The total investment necessary to begin operation of a Cowboy Jack's Restaurant franchise is between \$2,271,550 and \$6,130,000 if you open a Fully Remodeled Restaurant and between \$1,458,050 and \$3,885,000 if you open a Second Generation Restaurant. This includes \$45,000 to \$47,000 that must be paid to the franchisor or affiliate. If you enter into an Area Development Agreement, you must also pay a Development Fee to the franchisor equal to 50% of the Initial Fees for the Cowboy Jack's Restaurants that you are required to develop under the Area Development Agreement.

This Disclosure Document summarizes certain provisions of your Franchise Agreement and other information in plain English. Read this Disclosure Document and all accompanying agreements carefully. You must receive this Disclosure Document at least 14 calendar days before you sign a binding agreement with, or make any payment to, the franchisor or an affiliate in connection with the proposed franchise sale. **Note, however, that no governmental agency has verified the information contained in this Disclosure Document.**

You may wish to receive your Disclosure Document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact Jeff Crivello at 7575 Golden Valley Rd, Ste 340, Golden Valley, MN 55427, (847) 651-2274

The terms of your contract will govern your franchise relationship. Do not rely on the Disclosure Document alone to understand your contract. Read all of your contract carefully. Show your contract and this Disclosure Document to an advisor, like a lawyer or an accountant.

Buying a franchise is a complex investment. The information in this Disclosure Document can help you make up your mind. More information on franchising, such as "A Consumer's Guide to Buying a Franchise," which can help you understand how to use this Disclosure Document, is available from the Federal Trade Commission (the "FTC"). You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue NW, Washington, DC 20580. You can also visit the FTC's home page at [www.ftc.gov](http://www.ftc.gov) for additional information. Call your state agency or visit your public library for other sources of information on franchising.

There may also be laws on franchising in your state. Ask your state agencies about them.

Issuance Date: April 21, 2025

## How to Use This Franchise Disclosure Document

Here are some questions you may be asking about buying a franchise and tips on how to find more information:

QUESTION	WHERE TO FIND INFORMATION
<b>How much can I earn?</b>	Item 19 may give you information about outlet sales, costs, profits or losses. You should also try to obtain this information from others, like current and former franchisees. You can find their names and contact information in Item 20 or Exhibit A.
<b>How much will I need to invest?</b>	Items 5 and 6 list fees you will be paying to the franchisor or at the franchisor's direction. Item 7 lists the initial investment to open. Item 8 describes the suppliers you must use.
<b>Does the franchisor have the financial ability to provide support to my business?</b>	Item 21 or Exhibit C includes financial statements. Review these statements carefully.
<b>Is the franchise system stable, growing, or shrinking?</b>	Item 20 summarizes the recent history of the number of company-owned and franchised outlets.
<b>Will my business be the only Cowboy Jack's business in my area?</b>	Item 12 and the "territory" provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
<b>Does the franchisor have a troubled legal history?</b>	Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.
<b>What's it like to be a Cowboy Jack's franchisee?</b>	Item 20 or Exhibit A lists current and former franchisees. You can contact them to ask about their experiences.
<b>What else should I know?</b>	These questions are only a few things you should look for. Review all 23 Items and all Exhibits in this disclosure document to better understand this franchise opportunity. See the table of contents.

## **What You Need To Know About Franchising *Generally***

**Continuing responsibility to pay fees.** You may have to pay royalties and other fees even if you are losing money.

**Business model can change.** The franchise agreement may allow the franchisor to change its manuals and business model without your consent. These changes may require you to make additional investments in your franchise business or may harm your franchise business.

**Supplier restrictions.** You may have to buy or lease items from the franchisor or a limited group of suppliers the franchisor designates. These items may be more expensive than similar items you could buy on your own.

**Operating restrictions.** The franchise agreement may prohibit you from operating a similar business during the term of the franchise. There are usually other restrictions. Some examples may include controlling your location, your access to customers, what you sell, how you market, and your hours of operation.

**Competition from franchisor.** Even if the franchise agreement grants you a territory, the franchisor may have the right to compete with you in your territory.

**Renewal.** Your franchise agreement may not permit you to renew. Even if it does, you may have to sign a new agreement with different terms and conditions in order to continue to operate your franchise business.

**When your franchise ends.** The franchise agreement may prohibit you from operating a similar business after your franchise ends even if you still have obligations to your landlord or other creditors.

### **Some States Require Registration**

Your state may have a franchise law, or other law, that requires franchisors to register before offering or selling franchises in the state. Registration does not mean that the state recommends the franchise or has verified the information in this document. To find out if your state has a registration requirement, or to contact your state, use the agency information in Exhibit H.

Your state also may have laws that require special disclosures or amendments be made to your franchise agreement. If so, you should check the State Specific Addenda. See the Table of Contents for the location of the State Specific Addenda.

### Special Risks to Consider About *This* Franchise

Certain states require that the following risk(s) be highlighted:

1. **Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor by mediation, arbitration and/or litigation only in Minnesota. Out-of-state mediation, arbitration, or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate, arbitrate, or litigate with the franchisor in Minnesota than in your own state.

Certain states may require other risks to be highlighted. Check the “State Specific Addenda” (if any) to see whether your state requires other risks to be highlighted.

**THE AFTER MIDNIGHT GROUP LLC**  
**FRANCHISE DISCLOSURE DOCUMENT**

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## 1. THE FRANCHISOR AND ANY PARENTS, PREDECESSORS AND AFFILIATES

### Franchisor

AMG Franchises LLC is the Franchisor and is referred to in this Disclosure Document as “After Midnight,” “we,” or “us.” “You” means the person or entity who buys the franchise from us. If the franchise is purchased by a corporation, limited liability company, partnership or other entity, then “you” may also mean the shareholders, members, partners or other owners of that entity.

This Disclosure Document is for the offer and sale of franchised Cowboy Jack’s restaurants by us. This restaurant concept is referred to in this Disclosure Document as the “Cowboy Jack’s Restaurant” or the “Restaurant.”

We are a Minnesota limited liability company formed on January 27, 2025 that does business under its entity name. Our principal business address is 7575 Golden Valley Rd, Ste 340, Golden Valley, MN 55427. Our mailing address is 7575 Golden Valley Rd, Ste 340, Golden Valley, MN 55427. We do not conduct any other business, and have not offered franchises for any other restaurant concept or franchises in any other line of business, other than the franchises being offered in this Disclosure Document. We have never owned or operated any Cowboy Jack’s Restaurants, but affiliates of ours own and operate Cowboy Jack’s Restaurants (see below in this Item).

We commenced our franchise program in February 2025. There are currently no franchised Cowboy Jack’s Restaurants.

The agents for service of process on us are listed in the State Agency Exhibit (Exhibit G) attached to this Disclosure Document.

### Predecessors and Affiliates of After Midnight

We are a wholly owned subsidiary of Ciao Hospitality Group LLC (“**Ciao Hospitality Group**”), a Delaware limited liability company formed on December 1, 2023 with a principal address of 235 Walnut Street, Libertyville, Illinois 60048. Ciao Hospitality Group is our parent. As discussed below, Ciao Hospitality Group, through its subsidiaries, operates Cowboy Jack’s Restaurants (the “**Affiliate-owned Restaurants**”). Ciao Hospitality Group has not offered franchises for Cowboy Jack’s Restaurants, or franchises in any other line of business.

The following entities are our affiliates who operate the Affiliate-owned Restaurants in the referenced cities: The After Midnight Group III, LLC (Plymouth, Minnesota); The After Midnight Group IV, LLC (Bloomington, Minnesota); The After Midnight Group VII, LLC (Minneapolis, Minnesota); AMG Otsego, LLC (Otsego, Minnesota); AMG VA Operations, LLC (Fredericksburg, Virginia). Our affiliate, The After Midnight Group IX, LLC, operates a related restaurant—Sally’s Saloon—that is located in Minneapolis, Minnesota. None of our affiliates referenced in this paragraph has ever offered franchises in any line of business.

Our predecessor and one our affiliates is After Midnight Group, LLC (“**AMG**”), a Minnesota limited liability company formed on June 1, 2007 that does business under its entity name. AMG previously offered licenses for Cowboy Jack’s Restaurants. From 2007 to 2024, AMG offered licenses for the operation of Cowboy Jack’s Restaurants that were similar to the Cowboy Jack’s franchises offered under this disclosure document, and as of December 31, 2024, there were 5 Cowboy Jack’s Restaurants operating under a license agreement (the “**Cowboy Jack’s Licensees**”). These Cowboy Jack’s Licensees

operate under several different forms of license agreements with terms and conditions that may differ significantly from the form of Franchise Agreement that you will sign.

### Franchised Business

We grant franchises for the operation of Cowboy Jack's Restaurants. Cowboy Jack's Restaurants are restaurants featuring a variety of craft beer selections and high-quality food and beverage products in a distinctive, country western themed environment. We generally offer Cowboy Jack's Restaurants in developed markets, such as middle-class or affluent suburban markets, and in locations near professional sports arenas.

The restaurant business is highly competitive for pricing, service, restaurant location, and food quality, and is subject to changes in consumer taste, economic conditions, population and travel patterns. You will compete with locally owned restaurants, including restaurants that offer similar American style cuisine and that serve alcoholic beverages, as well as with national and regional restaurant chains. Cowboy Jack's Restaurants also compete for experienced management personnel and kitchen staff, and commercial real estate and lease sites suitable for restaurants.

### Regulations Specific to the Restaurant Industry

The restaurant industry is heavily regulated. Many of the laws, rules and regulations that apply to businesses generally have particular applicability to restaurants. All Cowboy Jack's Restaurants must comply with federal, state and local laws applicable to the operation and licensing of restaurant businesses, including nutritional disclosure requirements, regulations affecting the content of foods served in restaurants and obtaining all applicable health permits and/or inspections and approvals by municipal, county or state health departments that regulate food and liquor service operations. Your Restaurant must also meet applicable municipal, county, state and federal building codes and handicap access codes. You should consider the cost and time required to comply with these laws and regulations when evaluating your purchase of a franchised Cowboy Jack's Restaurant.

You must secure a liquor license to sell alcoholic beverages at your Restaurant. The difficulty and cost of obtaining a liquor license, and the steps for securing the license, vary greatly from area to area. There is also wide variation in state and local laws and regulations that govern the sale of alcoholic beverages. In addition, state dram shop laws give rise to potential liability for injuries that are directly or indirectly related to the sale and consumption of alcohol.

The U.S. Food and Drug Administration, the U.S. Department of Agriculture and state and local health departments administer and enforce regulations that govern food preparation and service and restaurant sanitary conditions. State and local agencies inspect restaurants to ensure that they comply with these laws and regulations.

The Federal Clean Air Act and various state laws require certain state and local areas to meet national air quality standards limiting emissions of ozone, carbon monoxide and particles, including caps on emissions from commercial food preparation. Some state and local governments also regulate indoor air quality, including limiting the use of tobacco products in public places, such as restaurants.

### Area Development Agreement

If you meet the qualifications established by us, and subject to our consent which can be withheld in our sole discretion, you may be allowed to enter into an Area Development Agreement for the development of multiple Cowboy Jack's Restaurants in a designated geographic area called a "Territory." Under the

Area Development Agreement, you must develop in your Territory an agreed upon number of Cowboy Jack's Restaurants within a specified period of time. You will sign a separate then-current Franchise Agreement for each Restaurant you develop under the Area Development Agreement.

## **2. BUSINESS EXPERIENCE**

### Managing Partner, Jeff Crivello

Jeff Crivello has been our Managing Partner since March 1, 2024 in Golden Valley, Minnesota. Mr. Crivello is also the Managing Partner of our parent Ciao Hospitality Group in Golden Valley, Minnesota, a position he has held since March 2024. Mr. Crivello is also the President of TREW Capital Management Inc., a position he has held since March 2023. Mr. Crivello was the CEO of BBQ Holding in Minneapolis, Minnesota from November 2017 to February 2023.

### Director of Operations, Meghan Nichols

Meghan Nichols has been our Director of Operations in Golden Valley, Minnesota since January 2019. Prior to that, Ms. Nichols served as a member of our operations team in Minneapolis, Minnesota.

### Regional Director, Joel Grabowski

Joel Grabowski has been our Regional Director in Golden Valley, Minnesota since October 2023. From July 2021 to October 2023, Mr. Grabowski served as a General Manager at Cowboy Jack's Otsego, Minnesota location. From July 2018 to July 2021, Mr. Grabowski served as a Manager at Cowboy Jack's Otsego, Minnesota location.

## **3. LITIGATION**

No litigation is required to be disclosed in this item.

## **4. BANKRUPTCY**

No bankruptcy is required to be disclosed in this item.

## **5. INITIAL FEES**

### Initial Fee

If you sign a Franchise Agreement for a single Cowboy Jack's Restaurant, you will pay us an Initial Fee of \$45,000. You must pay the Initial Fee in full when you sign the Franchise Agreement. The amount of the Initial Fee charged by us is uniform, is fully earned when paid, and is not refundable under any circumstances.

### Development Fee

If you enter into an Area Development Agreement with us, you must pay us a nonrefundable Development Fee when you sign the Area Development Agreement. The amount of the Development Fee you will pay to us will equal 50% of the then-current Initial Fees payable for each Restaurant that you are required to open in the Territory according to the Development Schedule in the Area Development Agreement. In addition to paying the Development Fee when you sign the Area Development Agreement, you will sign a separate Franchise Agreement for each Restaurant you develop under the Area Development Agreement and pay the remaining balance of the applicable Initial Fee for each



Restaurant in the Territory. You will pay the Development Fee in full when you sign the Area Development Agreement. You must sign the Franchise Agreement for the first Restaurant in your Territory when you sign the Area Development Agreement. You will pay the remaining balance of the applicable Initial Fee each time you sign a then-current Franchise Agreement for each Restaurant you develop according to the Development Schedule in the Area Development Agreement. The Development Fee will be nonrefundable and will be fully earned by us.

### Initial Inventory

You may be required to purchase certain opening inventory and supplies, such as gift card stock and merchandise, from us or our affiliates. We estimate that the costs for these items will range from \$0 to \$2,000.

## **6. OTHER FEES**

<b>Type of Fee</b>	<b>Amount</b>	<b>Date Due</b>	<b>Remarks (1)(2)</b>
Royalty Fees	5% of monthly Gross Sales, or \$2,300, whichever is greater	The 10 <sup>th</sup> day of each month or at such time as may be designated by us (the “ <b>Payment Date</b> ”)	Payable each Payment Date after the Restaurant commences business; the term “Gross Sales” is defined in Note 3.
Marketing Fund Fees	1% of monthly Gross Sales	The Payment Date, unless that day is a non-business day, in which case the Marketing Fund Fee is payable to Franchisor on the next business day	Deposited in the advertising and marketing fund (the “ <b>Marketing Fund</b> ”) controlled by us.
Audit Fees	Estimated to range from \$2,500 to \$5,000	Within 10 days after receipt of an invoice indicating the amount owed to us	Amount incurred by us to audit your Restaurant business (including our employees salaries, benefits, travel expenses, and audit fees); payable only if an audit shows that you understated your Gross Sales by more than 2% in any month, quarter or year.
Assignment Fee	\$5,000	On or before the date of the assignment of the Franchise Agreement or Area Development Agreement.	You must obtain our prior approval for an assignment.
Collection Costs	Varies	On demand	Amount incurred by us to collect unpaid Fees; includes attorneys’ fees and related costs.
Interest Charges	The lesser of 18% per annum or the maximum legal rate allowable by applicable law	On demand	Applies to past due payments payable to us.

Type of Fee	Amount	Date Due	Remarks (1)(2)
New Management Staff Training	Then-current Per Diem Training Fee for each trainer, plus Travel Expenses of each trainer (5)(6)	Within 10 days after receipt of an invoice indicating the amount owed to us	Payable if you hire new Management Staff employees; Travel Expenses are payable if training is provided at your Restaurant.
On-site Training or Consulting Fees	Then-current Per Diem Training Fee for each trainer, plus the Travel Expenses of each trainer (5)(6)	Within 10 days after receipt of an invoice indicating the amount owed to us	Payable if we conduct additional training at your Restaurant, or at another location that we designate, on topics to be determined by us, if your Restaurant fails to meet certain performance standards, as we otherwise determine, or if you request that consulting assistance be provided at your Restaurant.
Relocation Fee	\$5,000	On the date you receive approval from us to relocate the Restaurant to a new Franchised Location	Payable only if you receive approval from us to relocate the Franchised Location.
Renewal Fee	10% of the Initial Fee in the then-current standard Franchise Agreement	When you sign a new Franchise Agreement	Payable only if, after the expiration of your Franchise Agreement, you meet all requirements and renew the Franchise for your Cowboy Jack's Restaurant.
Local Advertising	You must spend at least \$2,500 on approved Local Advertising each calendar year.	As incurred	You must spend at least \$2,500 on approved Local Advertising each calendar year. On the first Monday of each calendar month, you will furnish us with an accurate accounting of your expenditures for Local Advertising for the previous month, if any. If you fail to spend \$2,500 for approved Local Advertising in any calendar year, you will deposit with us the difference between the amount that you were required to spend and the amount that you actually spent. We will have the right to spend all of the funds deposited by you under for advertising and promotion in your Designated Media Market in the manner that we deem appropriate.
Local Advertising Fee	1% of monthly Gross Sales	Payable to Local Advertising Association on the Payment Date	When there are two or more Cowboy Jack's Restaurants in your Designated Media Market, we may require that you contribute Local Advertising Fees equal to 1% of your weekly Gross Sales to a Local Advertising Association ("LAA"). If a local advertising group (a " <b>Local Advertising Association</b> " or " <b>LAA</b> ") is established for the Designated Media Market (as defined in Item 11) in which your Restaurant is located, the Local Advertising Fee paid by you to the LAA will be applied to your Local Advertising requirement. The Members participating in and contributing to the LAA will include the franchised Cowboy Jack's Restaurants and the Restaurants owned and operated by us or an affiliate located in the Designated Media Market. Each Member will have one vote for each Restaurant owned by it in the Designated Media Market.

Type of Fee	Amount	Date Due	Remarks (1)(2)
Review of Unapproved Supplier	Estimated to range from \$1,000 to \$4,000	Within 10 days after receipt of an invoice indicating the amount owed to us	You must reimburse us for the expenses we incur inspecting or evaluating an unapproved supplier; payable only if you request that we review and approve a previously unapproved supplier (see Item 8).
Convention Registration Fees	Then-current registration fee for the event	When you register for a convention, meeting, seminar, franchisee gathering or other group session	The individuals we designate will attend each group event we held by us. We will determine the topics covered, duration, dates and locations of all such events.
Restaurant Evaluation Fees	½ of the then-current fees charged by the service provider to evaluate your Restaurant	Within 30 days after receipt of an invoice indicating the amount owed to us	The fees charged by the service provider for evaluating your Restaurant will be shared equally by us and you. However, if your Restaurant fails a food safety evaluation, you must pay the full cost of any required follow-up evaluation, as well as the full cost of the original failed evaluation.
Non-Compliance Fee	\$1,000 per occurrence, and \$100 for each week such default or non-compliance remains uncured (7)	As incurred	The fees we charge in the event of any instance of your non-compliance with the Franchise Agreement, Operations Manual, or other policies and our System standards, for which we notify you of such default or non-compliance.

**Footnotes:**

- (1) With the exception of the costs associated with Local Advertising, each fee is payable by EFT. We uniformly impose the fees disclosed in this Item. Different versions of the Franchise Agreement and Area Development Agreement effective during prior and future registration periods may contain different fees, due dates and fee amounts. For example, Cowboy Jack's Licensees operate under several different forms of agreements in which they pay fees in varying amounts (and in some cases no amount at all) of royalties, marketing fund fees, and local advertising fees.
- (2) All Fees are nonrefundable.
- (3) "Gross Sales" means the total dollar sales from all guests or customers of Franchisee's Restaurant, and will include all cash, credit card, and credit sales made by Franchisee of every kind and nature made at, from, by or in connection with Franchisee's Restaurant including, but not limited to, all dollars and income received from the following: (a) the sale of all Foods, Beverages, and Products (as defined in Item 8); (b) the sale of any and all goods, products, merchandise or items sold under any of the Marks; (c) all payments received from or for vending machines, telephones and electronic and other amusement games; (d) all payments received from or for slot machines, gaming machines and other gambling devices (notwithstanding this Agreement's prohibition on the use of such devices at the Franchised Location); (e) all payments received from or for lotteries, lottery tickets and pull tabs notwithstanding this Agreement's prohibition on the sale of such items at the Franchised Location; (f) all sales from the catering of Foods, Beverages, and Products; (g) all sales from the delivery of Foods, Beverages, and Products; (h) all sales of Foods, Beverages or Products for any banquet service; (i) all sales from the carry-out of Foods, Beverages, and Products; (j) all sales of Foods, Beverages, and Products at any locations or sites other than the Franchised Location; (k) all payments received from or for the redemption of gift cards and gift certificates by Franchisee's Restaurant; (l) all payments received from business interruption insurance payments made to Franchisee by any insurance company; and (m) the sale of all Foods, Beverages, and Products to its employees including sales from discounted meals provided to employees and actually paid for by employees. "Gross Sales" will not include (i) any sales, use or gross receipts tax imposed by any

Governmental Authority directly upon sales, if the amount of the tax is added to the selling price and is charged to the customer, a specific record is made at the time of each sale of the amount of such tax, and the amount of such tax is paid to the appropriate taxing authority by Franchisee; (ii) the sale (as opposed to the redemption) of gift cards by Franchisee's Restaurant; (iii) the value of complimentary Foods, Beverages, and Products, such as house charges; and (iv) the one-time sale of any FF&E or any inventory items to a purchaser.

- (4) If you sign an Area Development Agreement, then for the second and each subsequent Franchise Agreement you sign for the Restaurants you must develop under the Area Development Agreement, you will pay weekly Royalty Fees at the rate specified in the Franchise Agreement for your first Restaurant, even if the Royalty Fees in subsequent Franchise Agreements differ. You will pay all other Fees in the amounts specified in each Franchise Agreement that you sign for the Restaurants you develop under the Area Development Agreement.
- (5) "Per Diem Training Fee" will mean the current daily that we charge for each employee or independent contractor who provides any training, coaching, consulting and/or instructing services or any operational assistance or other services to you pursuant to the terms of the Franchise Agreement. The amount of the Per Diem Training Fee will be the amount specified in the most current publication and update of the Operations Manual, and we may increase the amount of the Per Diem Training Fee from time to time, at our sole option, to account for inflation, increased costs and other economic conditions.
- (6) "Travel Expenses" include all costs incurred for travel, transportation, food, lodging, telephone calls, automobile rental and all other related expenses.
- (7) The Non-Compliance Fee is intended to reimburse us for our damages and other losses incurred, as well as the time, expense, and other expenditure of resources incurred due to a franchisee's default or non-compliance. The additional weekly charge is our best estimate of the ongoing costs to monitor a franchisee's action until the default or non-compliance is rectified and cured.

## 7. ESTIMATED INITIAL INVESTMENT

### YOUR ESTIMATED INITIAL INVESTMENT

#### Full Remodel

<b>Type of Expenditure</b>	<b>Low to High (1)</b>		<b>Method of Payment (2)</b>	<b>When Due</b>	<b>To Whom Payment Is To Be Made</b>
Initial Fee (3)	\$45,000	\$45,000	Lump Sum	See Item 5	Us
Real Estate Acquisition (4)	\$3,000	\$5,000	As Arranged	As Incurred	Suppliers
Leasehold Improvements (5)	\$600,000	\$1,500,000	As Arranged	As Incurred	Suppliers
Lease Payments – 3 Months (6)	\$40,000	\$150,000	As Incurred	As Incurred	Landlord
Initial Inventory (7)	\$70,000	\$120,000	As Arranged	As Incurred	Suppliers, Leasing Companies, or Us
Wages, Travel and Living Expenses for You and Your Management Staff During Training (8)	\$12,000	\$26,000	As Incurred	As Incurred During Training	Employees, Airlines, Hotels and Restaurants

<b>Type of Expenditure</b>	<b>Low to High (1)</b>		<b>Method of Payment (2)</b>	<b>When Due</b>	<b>To Whom Payment Is To Be Made</b>
Furniture, Fixtures, Supplies, Inventory, Décor and Equipment (9)	\$1,000,000	\$3,000,000	As Arranged	As Incurred	Suppliers or Leasing Companies
Architectural, Engineering Fees (10)	\$30,000	\$90,000	As Arranged	Before Opening	Suppliers
Signage	\$40,000	\$120,000	As Arranged	As Incurred	Suppliers
Point-of-Sale and Computer System (11)	\$10,000	\$25,500	As Arranged	As Incurred	Suppliers
Security System (12)	\$500	\$3,000	\$500	\$3,000	\$500
Liquor License Costs (13)	\$6,800	\$11,000	Lump Sum	Before Opening	Governmental Agencies and for Professional Services
Additional License Costs (14)	\$2,500	\$5,000	Lump Sum	Before Opening	Governmental Agencies and for Professional Services
Opening Advertising	\$2,500	\$2,500	As Incurred	As Incurred	Suppliers
Insurance Premiums – 3 Months	\$8,500	\$25,500	As Arranged	As Arranged	Insurance Companies
Employee Salaries – 3 Months (15)	\$150,000	\$600,000	As Incurred	As Incurred	Employees
Miscellaneous (16)	\$150,000	\$200,000	As Incurred	Before Opening or As Otherwise Arranged	Landlord, Utilities, Government Agencies, Attorneys, Accountants and Other Professionals
Additional Funds – 3 Months (17)	\$100,750	\$201,500	As Incurred	As Incurred	Us, Landlord, Suppliers and Utilities
Total (18) (19)	\$2,271,550	\$6,130,000			

**Second-Generation Restaurant**

<b>Type of Expenditure</b>	<b>Low to High (1)</b>		<b>Method of Payment (2)</b>	<b>When Due</b>	<b>To Whom Payment Is To Be Made</b>
Initial Fee (3)	\$45,000	\$45,000	Lump Sum	See Item 5	Us
Real Estate Acquisition (4)	\$3,000	\$5,000	As Arranged	As Incurred	Suppliers
Leasehold Improvements (5)	\$300,000	\$800,000	As Arranged	As Incurred	Suppliers
Lease Payments – 3 Months (6)	\$40,000	\$150,000	As Incurred	As Incurred	Landlord

<b>Type of Expenditure</b>	<b>Low to High (1)</b>		<b>Method of Payment (2)</b>	<b>When Due</b>	<b>To Whom Payment Is To Be Made</b>
Initial Inventory (7)	\$70,000	\$120,000	As Arranged	As Incurred	Suppliers, Leasing Companies, or Us
Wages, Travel and Living Expenses for You and Your Management Staff During Training (8)	\$12,000	\$26,000	As Incurred	As Incurred During Training	Employees, Airlines, Hotels and Restaurants
Furniture, Fixtures, Supplies, Inventory, Décor and Equipment (9)	\$500,000	\$1,500,000	As Arranged	As Incurred	Suppliers or Leasing Companies
Architectural, Engineering Fees (10)	\$15,000	\$45,000	As Arranged	Before Opening	Suppliers
Signage	\$40,000	\$120,000	As Arranged	As Incurred	Suppliers
Point-of-Sale and Computer System (11)	\$10,000	\$25,500	As Arranged	As Incurred	Suppliers
Security System (12)	\$500	\$3,000	\$500	\$3,000	\$500
Liquor License Costs (13)	\$6,800	\$11,000	Lump Sum	Before Opening	Governmental Agencies and for Professional Services
Additional License Costs (14)	\$2,500	\$5,000	Lump Sum	Before Opening	Governmental Agencies and for Professional Services
Opening Advertising	\$2,500	\$2,500	As Incurred	As Incurred	Suppliers
Insurance Premiums – 3 Months	\$10,000	\$25,500	As Arranged	As Arranged	Insurance Companies
Employee Salaries – 3 Months (15)	\$150,000	\$600,000	As Incurred	As Incurred	Employees
Miscellaneous (16)	\$150,000	\$200,000	As Incurred	Before Opening or As Otherwise Arranged	Landlord, Utilities, Government Agencies, Attorneys, Accountants and Other Professionals
Additional Funds – 3 Months (17)	\$100,750	\$201,500	As Incurred	As Incurred	Us, Landlord, Suppliers and Utilities
Total (18) (19)	\$1,458,050	\$3,885,000			

**Footnotes:**

- (1) For the estimated range of costs, we relied on the historical operations of the Cowboy Jack's Restaurants owned and operated by affiliated entities, as discussed in Item 1 of this Disclosure Document. The Full

Remodel amount assumes that you acquire a space that has no existing equipment and requires a complete remodel. The Second Generation Restaurant amount assumes that the space has a majority of the necessary FFE and the necessary Leasehold Improvements are primarily cosmetic in nature. You should carefully review these figures with your business advisor before making any decision to purchase a franchised Cowboy Jack's Restaurant.

- (2) Payments are not refundable unless otherwise noted. We do not offer direct or indirect financing.
- (3) The Initial Fee for a single Cowboy Jack's Restaurant is \$45,000, payable in full when you sign the Franchise Agreement. If you enter into an Area Development Agreement, you will pay us a Development Fee equal to \$45,000 per Cowboy Jack's Restaurant that is to be developed under the Area Development Agreement. If you sign an Area Development Agreement, we will credit \$45,000 of the Development Fee towards the \$45,000 Initial Fee for the first Cowboy Jack's Restaurant in your Territory. You will sign the Franchise Agreement for the first Restaurant in your Territory when you sign the Area Development Agreement. See Item 5 for additional information.
- (4) You will incur this cost if you elect to purchase a site for your Restaurant instead of leasing a site. We estimate that the costs associated with such a purchase will range from \$3,000 to \$5,000, which will be payable upon an approved site being found.
- (5) These estimated costs are to remodel an existing building or space to meet the image and décor requirements for Cowboy Jack's Restaurants. Costs for leasehold improvements will vary greatly, depending upon the location, condition, layout and content of the site, labor and material costs, and other economic factors. This number factors in necessary upgrades to interior and exterior walls, seating areas, bar tops, bar seating, host and entry way renovations, and other areas potentially needed to remodel a location to meet our brand requirements.
- (6) Cowboy Jack's Restaurants will require at least 3,000 square feet of floor space. The cost per square foot of leasing commercial property will vary considerably depending upon location and market conditions, and can range from \$100 to \$150 per square foot. This is an estimate of the annual rent expense that is typically expected and does not provide for the purchase of land or the construction of a building. If you buy unimproved real estate and construct your Restaurant, the total estimated initial investment for your Restaurant will be significantly higher. You may be able to negotiate various terms with your landlord, including providing you with a "Tenant Improvement Contribution" (or similar term) whereby the landlord reimburses certain costs and expenses associated with your construction and build-out of your Restaurant. When preparing a budget for the build-out/improvement of your Restaurant, we strongly recommend that you consult with a business advisor with experience in real estate and leasing where you intend and expect to locate your Restaurant to evaluate whether such concessions might be made available to you, all prior to entering into any agreement with us.
- (7) You are required to purchase an opening inventory of goods used in the preparation of products and other supplies from approved suppliers. These items include food, non-alcoholic beverages, and alcoholic beverages.
- (8) You must pay for the Salaries and Benefits, Travel Expenses and other expenses while you and your Management Staff attend the Training Program (see Item 11 for additional information).
- (9) This includes the cost of kitchen and bar equipment, registers, booths, bars, small wares, office equipment and supplies, such as glassware and paper products. Your furniture, fixtures, supplies, inventory, décor and equipment may be financed through a bank or other financial institution, leased or purchased outright.
- (10) Cowboy Jack's will provide a set of the plans and specifications for an existing Restaurant which may need significant modifications, at your expense, because of the unique aspects of the site you choose for your Restaurant. We require that you retain a licensed architect to prepare working drawings and construction and architectural plans and specifications for the Restaurant. We reserve the right to require

you to use a designated supplier or approved supplier in connection with the design, engineering, and/or construction management of the development of the Restaurant, and you must pay for costs associated with such supplier. You must also retain a licensed contractor for the construction or renovation of the Restaurant. The amount of fees you incur, will vary based on design, layout and specifications of your Restaurant premises and the geographic market in which you operate. You may also elect to retain additional business consultants, general contractors, or other representatives to assist you, which may cause your expenses to be higher than the amounts listed.

- (11) This includes the cost to purchase and install the computer hardware, peripherals, and software that will serve as the point-of-sale computer system for your Restaurant, and a maintenance agreement for that system (see Item 11).
- (12) This includes the cost to purchase and install a security system for your Restaurant.
- (13) Liquor license costs will generally range from \$6,000 to \$11,000. However, in isolated instances, you may have to pay an amount that is substantially higher for a liquor license. You must check with the local licensing regulatory agency to determine the cost of your liquor license.
- (14) Additional license costs will vary depending on where your Restaurant is located, but generally range from \$15,000 to \$30,000. These additional licenses include catering licenses, buyer cards, food licenses, and any other license required to operate the Restaurant in the Territory.
- (15) This estimate does not include the Salaries and Benefits for you and your Management Staff during training.
- (16) Miscellaneous fees include such items as the cash necessary for ATMs and tills, security deposits, utility and license deposits, commissions, permits, miscellaneous professional fees to acquire or lease the premises of your Franchised Location, and other accounting and legal fees. You should check with the local regulatory agency that issues building permits to determine what impact, connection, or other site development fees may be required for the specific site for your Cowboy Jack's Restaurant.
- (17) During the first 3 months of operations, you will need additional funds to cover your expenditures for food and beverage inventories, Fees due under the Franchise Agreement, Local Advertising, utilities, office and other supplies, and other miscellaneous operating costs. Your estimated additional funds have not been offset by any allowance for your operating Gross Sales during this 3-month period. You may need additional funds during the first 3 months of operation and afterwards. Your initial working capital requirements may increase or decrease depending upon your geographic area, number of employees, labor rates, minimum wage laws, and other economic factors. For the estimated range of additional funds that you will need during your first 3 months of operation, we relied on the initial operations of the Cowboy Jack's Restaurants owned and operated by affiliated entities (see Item 1).
- (18) These figures are estimates only, and it is possible that you may have additional or greater expenses during this period. Your costs will vary depending on the size of your Cowboy Jack's Restaurant, your geographic area, economic and market conditions, competition, interest rates, wage rates, sales levels attained, and other economic factors.
- (19) If you enter into an Area Development Agreement, the estimated initial expenditures for your first Restaurant will be as disclosed above in the chart in this Item, except you must also pay us a nonrefundable Development Fee. As a consequence, the estimated initial investment low and high amounts disclosed above will be increased by the amount of the Development Fee you must pay in full to us when you sign the Area Development Agreement (see Item 5).



## 8. RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

### Obligation to Purchase or Lease Products or Services from After Midnight or an Affiliate

Neither we nor any affiliate of ours currently sells or leases any products or services to you. However, we or an affiliate may be a designated or approved supplier for Cowboy Jack's franchisees in the future. None of our officers currently own any ownership interests in any designated or approved suppliers.

### Obligation to Purchase or Lease Products and Services under After Midnight's Restrictions

Selected items, such as certain brand name products, are manufactured or produced only by manufacturers or producers approved by us in writing. To ensure that you adhere to the uniformity requirements and quality standards associated with all Cowboy Jack's Restaurants, you must purchase these items for your Cowboy Jack's Restaurant, but you may purchase them from any distributor that can supply them. We will provide a written list of these selected foods, beverages and products. We will also notify you of any additions to or deletions from this list.

You must purchase or lease certain authorized and/or proprietary foods; food items; beverages, including alcoholic and non-alcoholic beverages; menu items; recipe ingredients; apparel; other branded merchandise; tickets; retail food and beverage products; and FF&E that are specified in the Operations Manual or otherwise approved by Franchisor in writing that are (a) used in the operation of the Restaurant, (b) used in the preparation of any foods or food items, and/or (c) offered for sale to customers of the Restaurant ("**Food, Beverages, and Products**") which satisfy the written standards and specifications established by us. This requirement is necessary to ensure that you adhere to the uniformity requirements and quality standards associated with all Cowboy Jack's Restaurants. We will provide you with written standards and specifications for the layout of your Restaurant premises, the decor of your Restaurant, your equipment and signs, including your Computers and Software (see Item 11), and certain food and beverage items.

We will issue specifications for the insurance you must carry. The current types and amounts of coverages required for your Restaurant are specified in Section 14 of the Franchise Agreement. You must obtain commercial comprehensive general liability insurance with coverage of at least \$1,000,000 per occurrence and \$3,000,000 aggregate coverage, liquor liability insurance with coverage of at least \$1,000,000 per occurrence and \$2,000,000 aggregate coverage, automobile insurance with coverage of at least \$500,000 per occurrence, property insurance covering all risk and with replacement cost coverage, business interruption insurance sufficient to cover actual losses sustained, building insurance with coverage of at least replacement cost, employment practices liability insurance with coverage of at least \$1,000,000 per occurrence, vendor insurance with coverage of at least \$1,000,000 per occurrence, vendor automobile liability insurance with coverage of at least \$1,000,000 per occurrence, data breach/cyber breach liability insurance, worker's compensation, unemployment, and employer's liability insurance with coverage of at least \$500,000 for each set of coverage, umbrella liability insurance with coverage of at least \$2,000,000, and all insurance required by law.

We determine our uniformity and quality standards and specifications, in our sole discretion. We may modify our written standards and specifications, and you must comply with any modifications. You will be responsible for ensuring that all the Foods, Beverages and Products selected by you will continue to conform to the standards and specifications established by us.

You must also purchase or lease certain other Foods, Beverages and Products required for your Restaurant only from suppliers designated or approved by us. We will provide a written list of designated or approved suppliers for these Foods, Beverages and Products. We will also notify you in writing of any

additions to or deletions from this list. If you want to contract with a supplier to purchase foods, beverages or products subject to our approved supplier requirements who we have not previously approved, then you must, at your expense, send us representative samples or specifications of that supplier's products or services, and certain other information about the supplier's products and business. We will also have the right to inspect the supplier's facilities and otherwise evaluate the proposed supplier and its products or services, and you must reimburse us for the expenses we incur, estimated to range from \$1,000 to \$4,000, to inspect and evaluate the supplier. Within 45 days after receiving the necessary samples and information, we will notify you in writing as to whether the supplier's products or services comply with our uniformity requirements, quality standards and specifications, and whether the supplier's business reputation, delivery performance, credit rating and other relevant information are satisfactory. The criteria for supplier approval are available to franchisees upon request.

You may not, without our prior written approval, offer or provide delivery, or enter into arrangements for third-party delivery, whether for a fee or not, of any Foods, Beverages, and Products offered for sale by your Restaurant. If we grant you permission to offer such delivery services, or to utilize a third-party delivery service to offer such delivery services, then no deliveries may be made outside a 15-mile radius of the Restaurant without our prior written approval.

If we grant you permission to use third-party delivery services (e.g. UberEats, DoorDash, etc.) at your Restaurant, we have the right to require that you only use specific vendors, who we have approved, for such services. We reserve the right to require that you use a specific vendor for the system that enables automatic order integration between such third-party vendors and the point-of-sale system. We further reserve the right to adjust royalties, fees, and other policies, as necessary, to account for changes in the volume of orders received, and the fees associated with, third-party delivery services.

We estimate that purchases of Food, Beverages and Products that meet our standards and specifications and purchases from designated or approved suppliers will constitute up to 35% of your initial expenditures to open your Cowboy Jack's Restaurant, and approximately 30% of the annual ongoing expenditures to operate your Restaurant.

Currently, we have an approved supplier—Toast POS—for the point-of-sale system you must use in connection with your Cowboy Jack's Restaurant. The details of the point-of-sale system requirements are further described in Item 11.

### Design of Restaurant

We will provide a set of the plans and specifications for an existing Restaurant. As discussed in Item 5 above, we require you to use a licensed architect who will be responsible for the preparation of working drawings and construction and architectural plans and specifications for the Restaurant.

Currently, we highly recommend, but not require, you to use a vendor we approve or designate for design, engineering, and construction management in connection with the development of your Restaurant. We, however, reserve the right to require you use the a designated or approved supplier in connection with design, engineering, and construction management in connection with the development of your Restaurant.

### Consideration Provided to Us or You from Suppliers

We may negotiate purchasing arrangements with suppliers of foods, beverages, products and services for the benefit of its franchise system. We have not established purchasing or distribution cooperatives. We

do not provide material benefits to you (for example, renewal or granting additional franchises) based upon your purchase of particular products or services or use of particular suppliers.

We may receive income in the form of rebates, discounts, allowances or other payments or credits from designated or approved suppliers that sell foods, beverages, products or services to franchisees. These payments may range from less than 1% up to 10% or more of the total purchase price of those items. In some cases, prices charged by suppliers to Affiliate-owned Restaurants may be less than prices charged to franchised Restaurants based on volume, credits, administrative costs or other factors. If we receives any rebates or other payments from a supplier as a result of your purchases from the supplier, those payments will be our exclusive property. You will not have any rights to the payments that suppliers make to us. Currently, we receive advertising rebates from PepsiCo, and marketing rebates and volume discounts from US Foods.

Because we began franchising in February 2025, we did not earn any revenue from required purchases by our franchisees; we, however, reserve the right to earn revenue from such purchases in the future.

Except as described above, you are not required to purchase or lease products or services from us or our affiliates, and we will not derive revenue or other material consideration based upon your purchases of products or services from designated or approved suppliers or based upon your purchases of products or services that must meet our standards and specifications.

## 9. FRANCHISEE'S OBLIGATIONS

**This table lists your principal obligations under the Franchise Agreement and other agreements. It will help you find more detailed information about your obligations in these agreements and in other Items of this Disclosure Document.**

Obligation	Section in Agreement	Disclosure Document Item
a. Site selection and acquisition/lease	Section 11 of Franchise Agreement	Item 11
b. Pre-opening purchases/leases	Sections 9, 11 and 12 of Franchise Agreement	Items 7 and 8
c. Site development and other pre-opening requirements	Section 11 of Franchise Agreement	Items 7 and 11
d. Initial and ongoing training	Section 13 of Franchise Agreement	Item 11
e. Opening	Section 13 of Franchise Agreement	Item 11
f. Fees	Sections 2.2, 3, 4, 5.3, 13.3, 13.4, 17.6, 18.7 of Franchise Agreement; Section 4 of Area Development Agreement	Items 5 and 6
g. Compliance with standards and policies/Operating Manual	Sections 8, 9, 10, 11 and 12, of Franchise Agreement; Section 6 of Area Development Agreement	Items 8, 11 and 14
h. Trademarks and proprietary information	Sections 1.2, 10 and 15 of Franchise Agreement; Sections 1.1, 1.2 and 2.3 of Area Development Agreement	Items 13 and 14
i. Restrictions on products/services offered	Sections 8 and 9 of Franchise Agreement	Items 8 and 16
j. Warranty and customer service requirements	Sections 8.1 and 8.13 of Franchise Agreement	
k. Territorial development and sales quotas	Section 5 of Area Development Agreement	Item 12
l. Ongoing product/service purchases	Sections 9 and 12 of Franchise Agreement	Item 8
m. Maintenance, appearance and remodeling requirements	Sections 8.20, 8.21 and 11 of Franchise Agreement	Item 17

Obligation	Section in Agreement	Disclosure Document Item
n. Insurance	Section 14 of Franchise Agreement	Items 7 and 8
o. Advertising	Sections 4, 5, 8.2, 12.4 and 12.5 of Franchise Agreement; Section 4.5 and 6.3 of Area Development Agreement	Items 6 and 11
p. Indemnification	Section 24 of Franchise Agreement; Section 13 of Area Development Agreement	Item 6
q. Owner's participation/management/staffing	Sections 8.13 13.1, 13.2 and 23.2 of Franchise Agreement; Section 12.2 of Area Development Agreement	Item 15
r. Records and reports	Sections 3.2, 5.2 and 7 of Franchise Agreement	Item 6
s. Inspections and audits	Sections 7.3, 8.14 and 11.7 of Franchise Agreement	Items 6 and 11
t. Transfer	Sections 17 and 21 of Franchise Agreement; Sections 7 and 10 of Area Development Agreement	Items 6 and 17
u. Renewal	Section 2.2 of Franchise Agreement; Sections 3.1 and 3.2 of Area Development Agreement	Item 17
v. Post-termination obligations	Section 20 of Franchise Agreement; Section 9 of Area Development Agreement	Item 17
w. Non-competition covenants	Section 22 of Franchise Agreement; Section 11 of Area Development Agreement	Item 17
x. Dispute resolution	Section 25 of Franchise Agreement; Section 14 of Area Development Agreement	Item 17

## 10. FINANCING

We do not offer direct or indirect financing to you. We also do not guarantee any note, lease or obligation.

## 11. FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS AND TRAINING

**Except as listed below, we are not required to provide you with any assistance.**

### Assistance Before Opening Your Restaurant:

(1) We do not have expertise in selecting real estate sites in the geographic area where your Restaurant will be located. You will be responsible for selecting the location for your Restaurant (see Section 11 of the Franchise Agreement). You must provide us with a copy of the proposed Lease for the site selected by you at least 15 days before the date the Lease is to be signed, and must receive our prior written approval of the proposed lease (which will not be unreasonably withheld) before you sign the Lease. Our review of the Lease will be only to determine whether the terms of the Lease comply with the terms and conditions of this Agreement, and not to provide any business, economic, legal or real estate advice or analysis. The Lease will include the Lease Addendum attached as Exhibit C to the Franchise Agreement, containing provisions confirming Franchisor's right, but not the obligation, to enter the premises of the Franchised Location to conduct our during regular business hours; our right, but not the obligation, to assume, or cause another franchisee to assume, the Lease in the event your right to operate a Cowboy Jack's restaurant is terminated; a restriction on the location owner's ability to operate a western themed restaurant for a certain period after a termination of this Agreement, and other provisions that we specify for the purpose of promoting conformity and continuity of the Franchised Location as a part of the Cowboy Jack's System. Your submission of the Lease must also include the necessary Site Information

for our review, including information on the demographics of the market area, traffic patterns, a description of the character of the neighborhood, the competition in the area of the proposed site, the size, appearance and other characteristics of the premises of the proposed site of your Restaurant and other information we request. The submission must utilize the forms that we may designate. Following your submission, we will review your proposed site in accordance with our then-current site selection policies and procedures. We may reject any proposed site; if we do, you must seek to locate an acceptable site. We have no obligation, duty or liability to you resulting from the site selected by you for your Franchised Location or the purchase or lease of your Franchised Location. We can terminate the Franchise Agreement if you fail to provide the Site Information and purchase or lease a site for your Restaurant within 120 days after the date of the Franchise Agreement (see Section 18.1 of the Franchise Agreement).

(2) We will provide a set of the plans and specifications for an existing Restaurant which may need significant modifications, at your expense, because of the unique aspects of the site you choose for your Restaurant (see Section 11.3 of the Franchise Agreement). We, therefore, require you to retain a licensed architect who will assist you in preparing working drawings and construction and architectural plans and specifications for your Restaurant. You will be responsible for the accuracy of all drawings, plans, and specifications for the Restaurant.

(3) We have established and will provide to you standards, specifications, and other requirements (the “**Design Standards**”) for the design, decoration, layout, FF&E and other items of the Restaurant. If you desire to deviate from the Design Standards, you must submit such changes and modifications to us for approval and may not make any changes and modifications without our prior written approval.

(4) We will provide you with standard sign plans and specifications for the exterior and interior signage (the “**Signs**”) to be used at the Restaurant, and the approved suppliers for such Signs (see Section 11.8 of the Franchised Agreement).

(5) After you sign the Franchise Agreement, we will train you and your Management Staff (see Section 13 of the Franchise Agreement and the Training section below in this Item 11 for additional information).

(6) After you and your Management Staff have successfully completed the Training Program to our satisfaction, we will provide an opening assistance team consisting of at least four trainers and one senior member of its franchise development team (the “**Opening Team**”) to assist with (a) implementing the Cowboy Jack’s System at your Restaurant, and (b) training your staff and kitchen employees. Members of the Opening Team will be present at your Restaurant for at least 9 days after opening. If any member of the Opening Team is required to remain at the Restaurant for more than 9 days, you will pay us the Per Diem Training Fee and the additional Travel Expenses for each additional day of on-site opening assistance provided by each member of the Opening Team within 10 days after receipt of an invoice from Franchisor indicating the amount owed. (see Section 13.6 of the Franchise Agreement).

(7) We will provide you with an electronic or on-line copy of the Operations Manual (see Section 10 of the Franchise Agreement). The Operations Manual is confidential and will remain our property during and after the term of the Franchise Agreement. See Exhibit B for a copy of the table of contents to the Operations Manual. The Operations Manual contains a total of approximately 200 pages.

(8) We will provide a written schedule of all foods, food items, beverages, furniture, fixtures, supplies and equipment required for your Restaurant (see Section 16.1(a) of the Franchise Agreement).

(9) We will provide a list of the designated and approved suppliers for the products and services that we require for use or sale in your Restaurant (see Sections 9.3, 9.4, and 16.1(b) of the Franchise Agreement).

(10) We will provide you certain grand opening promotional items, including gift certificates, press releases, and other location specific items.

(11) We will approve the office and telecommunications equipment, and the computer hardware, peripherals and software you will use in your Restaurant (see Section 12.2 of the Franchise Agreement and the Computer System section below in this Item).

Generally, the opening of your Restaurant will take place within approximately 9 months after the date of the Franchise Agreement, or as is otherwise agreed upon between you and us. Factors which will affect your opening date include selecting the location for your Restaurant, whether your Restaurant will be operated out of a converted premises or newly constructed building, obtaining the required licenses, including the liquor licenses, the delivery of your furniture, fixtures and equipment, acquiring inventory and supplies, obtaining financing (if applicable), hiring and training your employees, and completing the Training Program. You must obtain our written approval to open your Cowboy Jack's Restaurant. We can terminate the Franchise Agreement if you fail to open your Restaurant within 9 months after the date of the Franchise Agreement, or, if we and you agreed on a different timeframe for opening, then we can terminate the Franchise Agreement if you fail to open your restaurant within that agreed-upon timeframe (see Sections 1.5I and 18.1 of the Franchise Agreement).

You may request one extension of the opening date, for a period no greater than 60 days, by giving written notice to us before the previously agreed-upon opening date that describes and certifies the legitimate reasons for the delay. You must submit such written notice no less than 45 days prior to the previously agreed-upon opening date. In the event that we decide to grant your request for an extension, such extension will be based on our sole judgment and on such terms and conditions as we may then determine, and shall be expressed in a written extension signed by both you and us. There are no rights to any further extensions are contemplated by you or us (see Section 1.5I of the Franchise Agreement).

#### Assistance During Operation of Restaurant – After the Opening of Your Restaurant:

(1) We will provide additional training if, during the term of the Franchise Agreement, you hire a new member of your Management Staff who has not attended and successfully completed our Training Program or we determine that additional training is necessary (see Sections 13.3 and 13.4 of the Franchise Agreement and the Training section below in this Item).

(2) We will make available to you basic restaurant-level sales and cost accounting and business procedures (see Section 16.1I of the Franchise Agreement).

(3) We will make general marketing recommendations and review and approve the Local Advertising for your Restaurant (see Section 16.1I of the Franchise Agreement and the Advertising section below in this Item).

(4) We may establish a Marketing Fund that we administer and control. You will contribute 1% of your monthly Gross Sales to the Marketing Fund (see Section 5.3(f) of the Franchise Agreement, Item 6, and the Advertising section below in this Item).

- (5) We will periodically visit and review your Restaurant and provide written reports to you regarding your performance and your Restaurant's conformity with the System, as we deem appropriate (see Section 16.1(d) of the Franchise Agreement).
- (6) We will legally protect the Marks and the Cowboy Jack's System (see Section 16.1(g) of the Franchise Agreement).
- (7) We may develop and register new Marks (see Section 16.1(h) the Franchise Agreement).
- (8) We will provide advisory services by telephone or in writing (see Section 16.1(i) of the Franchise Agreement).
- (9) We will furnish a sample Cowboy Jack's Restaurant menu and modifications to the sample menu (see Section 16.1(j) of the Franchise Agreement).
- (10) We will provide the names and addresses of newly approved and designated suppliers for the Foods, Beverages and Products that we require to be used or sold in your Restaurant (see Sections 9.3 and 9.4 of the Franchise Agreement).
- (11) We will provide to you in writing or electronically all supplements and updates to the Operations Manual (see Section 16.1(k) of the Franchise Agreement).
- (12) If requested, we will send a consultant to train, assist and advise you on management and operations issues at the Franchised Location (see Section 13.4 of the Franchise Agreement). You will reimburse us for our Travel Expenses and pay the Per Diem Training Fee for such consulting assistance (see Item 6).

### Advertising

You will contribute a Monthly Marketing Fee of 1% of your weekly Gross Sales to the Marketing Fund administered and controlled by us (see Section 4.1 of the Franchise Agreement and Item 6). We will determine when, how and where the payments deposited into the Marketing Fund will be spent. Permitted expenditures from Marketing Fund include the right to purchase and pay for product and market research, market strategy, production development, production of point-of-sale materials, ads, brochures, radio and television commercial production costs, services provided by advertising agencies, maintaining sales and marketing staff and related expenses (including reasonable salaries, administrative costs, travel expenses, overhead and similar expenses that Franchisor may incur in activities related to the administration of the Marketing Fund), in-store advertising, signs, public relations, telemarketing, direct mail advertising, promotional programs, advertising market research, brand development, online media, graphics and design costs, creation and maintenance of a website for the Cowboy Jack's System, Internet costs, miscellaneous advertising costs, expenditures for items, materials and services provided by third parties, the costs incurred in administering the Marketing Fund, other costs and expenses as Franchisor deems appropriate and in the best interests of all Cowboy Jack's restaurants and the Cowboy Jack's System, and for local, regional, national and/or Cowboy Jack's System wide promotional programs and advertising. Except for possible incidental Website costs, the monies in the Marketing Fund will not be spent for the solicitation of prospective franchisees.

We do not have to spend the monies in the Marketing Fund for local, regional or national media coverage using any particular media or in any particular market. We do not have to spend the Marketing Fund Fees in your market area in proportion to the Marketing Fund Fees paid by you. We do not have to spend the funds in the Marketing Fund in the calendar year in which the payments were made. Payments to the

Marketing Fund not spent in the calendar year in which they were paid and the interest accrued will remain in the Marketing Fund. The Marketing Fund is not audited. A summary showing the income to and the expenditures from the Marketing Fund during each calendar year will be prepared by us each year for the preceding year, and copies of the summary will, upon written request, be provided to you on a confidential basis no more than once a year.

We will control and administer the Marketing Fund, which will be governed by the terms of the Franchise Agreement. All franchised and Company-owned Cowboy Jack's Restaurants will deposit 1% of their monthly Gross Sales into the Marketing Fund. During our fiscal year ended 2024, we did not collect or spend any amounts from the Marketing Fund.

You must spend at least \$2,500 on approved Local Advertising each calendar year (see Section 5.2 of the Franchise Agreement). If you fail to meet this minimum requirement, you will deposit with us the difference between what you should have spent and what you actually spent, and we will spend this amount on advertising in your market area. You will not conduct Local Advertising for your Restaurant until we have approved your advertising and promotion concepts, materials and media. Advertising, marketing and promotional materials included in the Operations Manual or otherwise that we have furnished to you have been approved by us. You will not establish a website or home page for your Restaurant.

When there are two or more Cowboy Jack's Restaurants in your Designated Media Market, you may be required to participate in cooperative advertising with the other Restaurants in your Designated Media Market and contribute Local Advertising Fees equal to 1% of your monthly Gross Sales to a Local Advertising Association. The Local Advertising Fees paid by you to the LAA will be applied to the Local Advertising requirement discussed in the preceding paragraph. The LAA will be governed and organized by the terms of the Franchise Agreement and administered by the "Members" of the LAA (see Section 5.3 of the Franchise Agreement). The Members of the LAA will include the franchised Cowboy Jack's Restaurants and the Restaurants owned and operated by us or our affiliate in the Designated Media Market. Each Member will have one vote for each Restaurant owned by it in the Designated Media Market. We can form, merge, dissolve or change the LAA.

The LAA will conduct advertising, promotion, marketing and public relations for the benefit of the Restaurants located in the Designated Media Market. The LAA will not conduct any advertising, promotion, marketing or public relations program or campaign for the Restaurants in the Designated Media Market until we have given the LAA written approval for all proposed concepts, materials or media. The LAA will provide a written summary of the Members' contributions to the LAA and an accurate accounting of the LAA's expenditures for approved local advertising and promotion to us and its Members within 20 days after the end of each calendar quarter.

### Computer System

The Computers and Software used in your Restaurant must meet the standards, specifications and requirements that we have established in the Operations Manual or otherwise in writing. You will, at your sole expense, lease, license or purchase the computer hardware; computer software; peripheral devices; physical, electronic, and other security systems; television devices and associated cable, antenna, and/or streaming subscriptions; and point-of-sale, cash register and operating systems (the "**Computers and Software**") that we require. We currently require that you use Toast POS as your point-of-sale hardware and software. The Computers and Software for your Restaurant must perform the functions that we require (see Section 12.2 of the Franchise Agreement). These functions include serving as your point-of-sale cash register and maintaining certain sales, financial, marketing, management and other business information for your Restaurant. Your Computers and Software will be configured to provide us with



direct electronic access to your Computers and Software, and databases to upload the data, financial information and other information you are required to provide to us, including the daily Gross Sales of your Restaurant, and by category, direct labor costs and food costs.

The initial cost for your Computers and Software is estimated to range from \$10,000 to \$15,000 (see Item 7). Neither we nor our affiliate(s) will supply, maintain, repair or update your Computers and Software. Office, fax and telecommunications equipment, computer hardware and peripherals, third party maintenance agreements, and computer software and operating systems are all available through commercial office and telecommunications equipment, and computer hardware and software vendors.

You will need to maintain, repair, and upon receipt of written notice from us, upgrade or update the Computers and Software for your Restaurant during the term of the Franchise Agreement. We estimate that the cost of your obligation to maintain, update or upgrade the Computers and Software for your Restaurant will generally range from \$2,000 to \$4,000 per year, plus additional monthly costs ranging from \$500 to \$2,500 per month, including Toast POS Platform Fees ranging from \$1,500 to \$8,000 per month. The costs you incur depend on the extra Toast POS platform features you may elect but are not required to use. There is no contractual limitation on the frequency and the cost of this obligation. We will have independent access to the information and data collected and generated by your point-of-sale computer system.

You will install and maintain telephone answering systems and other telephonic devices at the Restaurant, and will operate all communication and transmission systems and devices as specified by us in the Operations Manual or otherwise in writing.

You will also install and maintain a security system at the Restaurant. We anticipate that the cost to purchase and install this system will generally range from \$500 to \$3,000 and that you will incur monthly costs associated with the security system ranging from \$250 to \$500.

### Training

We will train you and your Management Staff (the “**Training Program**”) (see Section 13 of the Franchise Agreement). All courses will be taught as often as we deem necessary, and will be held at a Cowboy Jack’s Restaurant in or near Minneapolis, Minnesota or at another location that we designate (see the training chart below in this Item). The Training Program will include instruction on basic business procedures, equipment operation and maintenance, operating procedures, menu training, point-of-sale operations, Restaurant best practices, customer service, brand history and expectations, along with location specific information and other topics selected by us. The Training Program for you and your Management Staff will be for a minimum of 5 days (which need not be consecutive). The Training Program will include instruction on the topics that we select. The instructional materials for the Training Program will include the Operations Manual and other written, electronic or on-line materials.

The following chart summarizes Cowboy Jack's current initial Training Program:

### TRAINING PROGRAM

Subject	Hours of Classroom Training (2)	Hours of On-the-Job Training	Location (1)
All on site Supervising Owners, Operators, General Managers or managers	8	20	Cowboy Jack's Restaurant in or near Minneapolis, Minnesota.

Footnotes:

- (1) We can designate another location for the Training Program.
- (2) This training is included in the opening assistance provided by the Opening Team at your Restaurant (see above in this Item).

The Training Program will be conducted under the supervision and with the participation of our Director of Operations, Meghan Nicholls. Ms. Nicholls has been our Director of Operations since 2019 and has over 20 years of restaurant and hospitality experience. All training will be conducted by instructors who have at least one year of experience with Cowboy Jack's Restaurants or in restaurant operations.

The Training Program described in the above chart is provided to you and your Management Staff at no additional cost to you. However, you must pay the Salaries and Benefits, Travel Expenses and all other expenses for all persons who attend training on your behalf. The Management Staff must begin the Training Program at least 60 days prior to the Required Opening Date. The Management Staff must attend and successfully complete the Training Program and be certified in writing by us at least 30 days prior to the actual opening of the Restaurant.

We will provide additional training if, during the term of the Franchise Agreement, you hire a new member of your Management Staff who has not attended and successfully completed the required training, or as we in our sole discretion determines that additional training is necessary. The additional training provided by us and will be conducted at a Cowboy Jack's restaurant in or near Minneapolis, Minnesota, at another Cowboy Jack's restaurant that we designate, or at your Restaurant, at our sole discretion. You must pay us the then-current Per Diem Training Fee and reimburse us for the Travel Expenses it incurs in providing the training. You must also pay the Salaries and Benefits, Travel Expenses and all other expenses for each new Management Staff member who attends training on your behalf (see Sections 13.3 and 13.5 of the Franchise Agreement).

If you enter into an Area Development Agreement, our obligations to you will be as disclosed above in this Item for each Restaurant you develop under the Area Development Agreement.

## 12. TERRITORY

You will not receive an exclusive territory. However, if you are in compliance with the Franchise Agreement, we will not develop or franchise any other Cowboy Jack's restaurant in your territory.

If you sign a Franchise Agreement, you will operate your Restaurant at a single Franchised Location within a protected area ("**Designated Market Area**"). Your Designated Market Area will be defined in the Addendum to the Franchise Agreement, and may be expressed with reference to a radius, to roadways, to natural and/or man-made landmarks, or such other identifiers, and will be based on a negotiated value that takes into consideration site locations and the surrounding area. The Designated

Market Area is typically a circle having a 25-mile radius with the Restaurant as the center. You are not restricted from soliciting or accepting orders outside your Designated Market Area; however, you must obtain our approval to do so. Further, you may not sell any of the products or services offered in connection with your Restaurant on a wholesale basis, at any location other than your Franchised Location, or through the Internet, catalog, mail order, telemarketing or any other method of sales or distribution. The continuation of your Designated Market Area is not dependent upon your achieving a certain sales volume, market penetration or any other contingency. The Franchise Agreement does not grant any options, rights of first refusal or similar rights to you for the acquisition of additional franchises in areas that are contiguous to your Designated Market Area.

The site of your Franchised Location and consequently, your Designated Market Area may not be altered or relocated during the term of the Franchise Agreement, except with our prior written approval. With our prior written approval, you may relocate your Restaurant to another location in your Designated Market Area if: (1) your new location does not infringe upon and is not located within the market area of any existing or proposed Cowboy Jack's Restaurant; (2) your new location does not infringe on or is not located within any designated market area granted to any other franchisee or area developer of Cowboy Jack's; and (3) you pay us a Relocation Fee of \$5,000.

If you enter into an Area Development Agreement with us, you will receive the right to develop and operate Cowboy Jack's Restaurants in a specified geographic area called a "Territory." The Territory typically consists of one or more cities or market areas and will be delineated by specifying the streets or highways, or the county lines that form the boundaries of the Territory. Before you sign the Area Development Agreement, a description of the Territory will be included in the Area Development Agreement and a map of the Territory may also be attached. The size of the Territory and the number of the Restaurants you will develop within the Territory are determined by the population of the Territory and its market potential, taking into account demographics, economic conditions, business climate, competition, your financial resources and other relevant factors. Your Territory may not be altered or relocated during the term of the Area Development Agreement. You must meet the Development Schedule in the Area Development Agreement or you will lose your right to continue to develop Cowboy Jack's Restaurants in the Territory. Otherwise, the continuation of your Territory is not dependent upon your achieving a certain sales volume, market penetration or any other contingency. The Area Development Agreement does not grant any options, rights of first refusal or similar rights to you for the acquisition of additional development rights in your Territory or contiguous areas during or after the expiration of the term of the Area Development Agreement.


We will not franchise, license, develop, own or operate another Restaurant in your Designated Market Area if you sign a Franchise Agreement, or in your Territory if you sign an Area Development Agreement. However, your territorial rights in your Designated Market Area or your Territory will not be exclusive. You may face competition from other Cowboy Jack's franchisees, from restaurants owned by us or our affiliate(s), or from other channels of distribution or competitive brands controlled by us or our affiliate(s). We have the absolute right to: (1) develop other restaurant business concepts under other brand names if they are not Competitive Restaurants, even if the locations for the concept are within your Designated Market Area or Territory; (2) develop Cowboy Jack's Restaurants or Competitive Restaurants in your Designated Market Area or Territory if they are located at or within a college or university campus, a military facility, a regional or international airport, a theme or entertainment park, an interstate service plaza, or a stadium or arena used for sporting events; (3) market, distribute and sell, on a wholesale or retail basis, seasonings, sauces, food products, clothing, or any other products under any of the Marks, by direct sale, the Internet, mail order, infomercials, telemarketing or by any other marketing or distribution method, even if the sales are made to customers, distributors or retailers who are located in your Designated Market Area or Territory; and (4) own, operate, manage, franchise and/or license other individuals or entities to own, manage and/or operate Competitive Restaurants in your Designated Market

Area or Territory if we or an affiliate of ours derived its ownership interests or other rights to such restaurants after the date of your Franchise Agreement or Area Development Agreement as part of an acquisition or purchase of a majority of the ownership interests in, or substantially all of the assets of, another entity. We do not have to pay you if we exercise any of the rights specified above in your Designated Market Area or Territory.

### 13. TRADEMARKS

Under the Franchise Agreement, we license you the right to operate your Restaurant under the name “Cowboy Jack’s” and to use certain other current and future Marks. You may only use the Marks in the manner authorized in writing by us. You may not use any of the Marks as part of your corporate or other entity name. You must also follow our instructions for identifying yourself and for filing and maintaining the requisite trade name or fictitious name registrations.

The following Marks are registered with the United States Patent and Trademark Office (“USPTO”):

Mark	Registration No.	Registration Date	Register	Class
	5,343,101	November 28, 2017	Principal	30
COWBOY JACK’S	5,268,268	August 22, 2017	Principal	35 43

Affidavits for the Marks will be filed with the USPTO as required to maintain the federal trademark and service mark registrations.

The Marks are not registered in any state. We own the Marks.

There are no currently effective material determinations of the USPTO, the Trademark Trial and Appeal Board, the trademark administrator in any state or any court, no pending infringement or opposition proceeding, and no pending material litigation involving the Marks. To our knowledge, there are no infringing uses which could materially affect your use of the Marks or other related rights in any state.

You must provide us with written notice of any claims made against or associated with the Marks. We are obligated under the Franchise Agreement to protect your right to use the Marks and other related rights and to defend and to protect and/or indemnify you against claims of infringement and unfair competition because of your use of the Marks, and will control any proceedings or litigation involving the Marks. However, if anyone establishes to our satisfaction that its rights are, for any legal reason, superior to our rights as to any of the Marks, then you must use the variances or other service marks, trademarks or trade names that we require.

### 14. PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION

We do not own any patents or have any pending patent applications. We intend to copyright advertising copy and design, menu designs, training materials, the Operations Manual, and other written materials and items may be developed in the future. We have not applied to the U.S. Copyright Office to register these copyrights.

You must keep confidential the Operations Manual, any supplements to the Operations Manual, and any other manuals or written, electronic or on-line materials used in your Cowboy Jack's Restaurant. The Operations Manual contains information about the Cowboy Jack's System and recipes and cooking techniques that we have developed. We consider this information a trade secret and extremely confidential. You must use all reasonable means to keep this information confidential and to prevent any unauthorized duplication or reproduction of this information.

You should immediately inform us if you learn of any unauthorized use or infringement of, or challenge to, the copyrighted materials or any of the trade secret, proprietary or confidential information. We will take the action it deems appropriate, in its sole discretion. If anyone establishes to our satisfaction that its rights to the materials are superior, then you must modify or discontinue your use of the materials as we require.

You and your employees may not, without our prior written consent or as is permitted in the Operations Manual, utilize any generative artificial intelligence software, tools, or technologies, including, natural language processing, deep learning algorithms, or machine learning models ("Generative AI"), while operating the Restaurant. This includes, but is not limited to, uploading or sharing any Confidential Information with any third-party platforms, including Generative AI, except as authorized in writing by us. You may, however, utilize Generative AI features that may be available in any software or subscription that we require you to use when operating your Restaurant.

#### **15. OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS**

We recommend that you personally participate in the direct operation of your Restaurant, although you are not required to do so. Your Management Staff must successfully complete our training program before they will be allowed to participate in the operation of your Restaurant. Your Management Staff is not required to have an ownership interest in the entity entering into the Franchise Agreement or Area Development Agreement. However, your Management Staff must sign a confidentiality and noncompetition agreement in a form that is satisfactory to us.

If the party entering into the Franchise Agreement or Area Development Agreement with us is an entity, then the entity's owners and owners' spouses must agree that during the term of the agreement, they will not participate in any Competitive Restaurant, and that for 24 months after the expiration or termination of the agreement, they will not participate in any Competitive Restaurant located within 10 miles of your Cowboy Jack's Restaurant, any other Cowboy Jack's Restaurant, or any protected area granted by us. The owners of the entity must sign the applicable agreement and the personal guaranty attached to the agreement.

#### **16. RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL**

You may only sell the Foods, Beverages and Products specified or approved by us in writing. Selling Foods, Beverages and Products that have not been specified or approved by us is a material breach of the Franchise Agreement and, if not cured, is grounds for the termination of the Franchise Agreement. You must sell the Foods, Beverages and Products that we require. We can change the Foods, Beverages and Products that you must offer at your Restaurant. There is no limitation on our right to change the Foods, Beverages and Products offered by Cowboy Jack's Restaurants.

You are not limited to whom you may sell your Foods, Beverages and Products, but you may not sell any of the Foods, Beverages or Products offered in connection with your Restaurant on a wholesale basis, at any location other than your Restaurant, or through Internet, catalogue, mail order, telemarketing, or any

other method of sales or distribution. We do not impose any restrictions or conditions that limit your access to customers, except that you may offer catering and delivery services only with our prior written approval and according to our standards and specifications.

You may not, except with our written permission, permit any jukeboxes, performances of live music, electronic games, vending machines, ATMs, newspaper racks, entertainment devices, coin- or token-operated machines, or gambling devices or kiosks to be used on the Restaurant premises and will not sell or allow employees to sell any tickets, subscriptions, chances, raffles, lottery tickets or pull tabs.

## 17. RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION

### THE FRANCHISE RELATIONSHIP

**This table lists certain important provisions of the Franchise Agreement and related agreements. You should read these provisions in the agreements attached to this Disclosure Document.**

Provision	Article in Franchise Agreement	Summary
a. Length of the franchise term	2.1	10 years.
b. Renewal or extension of the term	2.2	Right to renew the Franchise for the Restaurant for 2 additional 5-year terms.
c. Requirements for franchisee to renew or extend	2.2	You must: give 180 days notice; have complied with all material terms and conditions of your current Franchise Agreement; have paid all monetary obligations owed to us during the term of the Franchise Agreement; agree in writing to remodel, redecorate, and renovate your Franchised Location; have the right to continue to occupy the Franchised Location; you, your Management Staff, and your employees have completed our required training; sign a joint and mutual release between you and us (see Exhibit F); sign the then-current standard Franchise Agreement; and pay the Renewal Fee. If you renew the Franchise at the end of the term of the Franchise Agreement, you will sign a new Franchise Agreement with materially different terms and conditions than your original Franchise Agreement.
d. Termination by franchisee	19.1	If we violate any material provision, term or condition of the Franchise Agreement, or fails to timely pay any material uncontested obligation due or owing to you.
e. Termination by franchisor without cause	Not applicable	
f. Termination by franchisor with cause	18.1	If you breach the Franchise Agreement.

<b>Provision</b>	<b>Article in Franchise Agreement</b>	<b>Summary</b>
g. “Cause” defined – curable defaults	18.1	You will have 30 days to cure if you: provide false, misleading, incomplete or inaccurate information; fail to obtain the site for the Franchised Location within 120 days; fail to obtain valid food service and liquor licenses within 10 days before the Required Opening Date; fail to complete the training program within 30 days before the Required Opening Date; violate a law or regulation applicable to your Restaurant’s operations; violate any material provision of the Franchise Agreement; are convicted of or plead guilty or no contest to any law adversely affecting your Cowboy Jack’s Restaurant; fail to pay any Fees or expenses due to us or third parties; are deemed to be insolvent; make an assignment for the benefit of creditors; issue any check which is dishonored; abandon the Restaurant; materially impair the goodwill of the Marks or the Cowboy Jack’s System; lose possession of the Franchised Location; lose your food service license or liquor license; fail to provide, or permit us to audit, your financial records; fail to open your Restaurant by the Required Opening Date; or breach any other agreement with us. You have 15 days to cure a failure to pay any Fees due to us.
h. “Cause” defined – non-curable defaults	18.4	We have the right (subject to state law) to terminate the Franchise Agreement immediately upon receipt of notice if you: are convicted of or plead guilty or no contest to any law adversely affecting your Cowboy Jack’s Restaurant; are deemed insolvent; make an assignment for the benefit of creditors; abandon the Restaurant; fail to provide, or permit us to audit, your financial records; materially impair the goodwill of the Marks or the Cowboy Jack’s System, subject to 24-hour cure period; violate any material provision 3 or more times during a 12-month period; or fail to open your Restaurant by the Required Opening Date.
i. Franchisee’s obligations on termination/nonrenewal	20	You must: pay what you owe under the Franchise Agreement within 5 days after termination; immediately return all printed Cowboy Jack’s and After Midnight materials; cease using the Marks and the Cowboy Jack’s System; alter the appearance of the Franchised Location; and transfer your telephone directory listings to us.
j. Assignment of the contract by franchisor	17.1	No restrictions on our right to assign the Franchise Agreement; the assignee must fully perform all obligations of ours under the Franchise Agreement.
k. “Transfer” by franchisee – defined	17.2, 17.3, 17.4	Includes the sale of ownership in the Franchisee and the assignment of rights under the Franchise Agreement.
l. Franchisor approval of transfer by franchisee	17.3	We have the right to approve any assignment made by you, but will not unreasonably withhold our consent. We may reasonably withhold our consent if the assignment would result in the transferee-franchisee directly or indirectly owning more than 5 Restaurants including the Restaurant being transferred.

Provision	Article in Franchise Agreement	Summary
M. Conditions for franchisor approval of a transfer	17.3, 17.6	You must: provide us with 45 days written notice of the assignment; pay all money owed to us; agree in writing to observe all applicable provisions of the Franchise Agreement; sign a joint and mutual release between you and us (see Exhibit F); and pay the Assignment Fee. The assignee must: meet the standards established by us for new franchisees; sign the legal agreements that we require; acquire the right to occupy the Franchised Location; acquire a valid food service and liquor license; and successfully complete training.
n. Franchisor's right of first refusal to acquire franchisee's business	21.10	You must offer the Major Assets to us if you receive a bona fide offer to purchase.
o. Franchisor's option to purchase franchisee's business	21.10	We have the option to purchase at the price and terms stated in the third-party offer.
p. Death or disability of franchisee	17.2	If you are an individual, the Franchise Agreement may be transferred upon your death or disability, subject to the requirements described in "m" above.
q. Noncompetition covenants during the term of the franchise	22.2	You may not participate in any Competitive Restaurant.
r. Noncompetition covenants after the franchise is terminated or expires	22.3	For 24 months after termination, you may not participate in any Competitive Restaurant that is within 10 miles of the Franchised Location or any other Cowboy Jack's Restaurant, or within any protected area granted by us.
s. Modification of the agreement	26.11	Only by written agreement between you and us.
t. Integration/merger clause	26.12	The Franchise Agreement constitutes the entire and complete agreement between you and us. Only the terms of the Franchise Agreement are binding (subject to state law). Any representations or promises outside of this Disclosure Document and the Franchise Agreement may not be enforceable.
u. Dispute resolution by arbitration or mediation	25.1, 25.2, 25.4	Except for certain claims, all disputes must be submitted to non-binding mediation. If the parties cannot resolve the claim, controversy or dispute within 60 days after conferring with the mediator, either party may submit such claim, controversy or dispute to arbitration, or to the appropriate court (if applicable).
V. Choice of forum	26.5	State where After Midnight's headquarters are located (see attached Addendum for state law modifications).
w. Choice of law	30	State where the Restaurant is located (see attached Addendum for state law modifications).



Provision	Section in Area Development Agreement	Summary
a. Length of agreement term	3.1	To be determined by you and us.
b. Renewal or extension of the term	3.2	For one year after expiration of the Area Development Agreement, you have a right of first refusal to develop additional Restaurants in the Territory.
c. Requirements for area developer to renew or extend	3.2	You have 30 days after receipt of the written offer from us to accept the offer to further develop the Territory. The written offer will have materially different terms and conditions than your original Area Development Agreement.
d. Termination by area developer	Not applicable	You may terminate the Area Development Agreement on any grounds available by applicable law.
e. Termination by franchisor without cause	Not applicable	
f. Termination by franchisor with cause	8.1	If you breach the Area Development Agreement.
g. “Cause” defined – curable defaults	8.1, 8.2	You will have 30 days to cure if you: fail to comply with the Development Schedule in the Area Development Agreement; abandon any of your Restaurants; violate a law or regulation applicable to your Restaurants’ operations; violate any material provision of the Area Development Agreement; are convicted of or plead guilty or no contest to any law adversely affecting your Cowboy Jack’s Restaurants; fail to pay any Fees or expenses due to us or third parties; are deemed to be insolvent; make an assignment for the benefit of creditors; issue any check which is dishonored for insufficient funds; materially impair the goodwill of the Marks or the Cowboy Jack’s System; breach any other agreement with us; or a Franchise Agreement between you and us is terminated for any reason. You have 15 days to cure a failure to pay any Fees due to us.
h. “Cause” defined – non-curable defaults	8.4	We have the right (subject to state law) to terminate the Area Development Agreement immediately upon receipt of notice if you: fail to comply with the Development Schedule in the Area Development Agreement; abandon any of your Restaurants; are convicted of or plead guilty or no contest to any law adversely affecting your Cowboy Jack’s Restaurants; are deemed insolvent; make an assignment for the benefit of creditors; materially impair the goodwill of the Marks or the Cowboy Jack’s System; or a Franchise Agreement between you and us is terminated for any reason.
i. Area developer’s obligations on termination/nonrenewal	9	Your rights under the Area Development Agreement revert to us; and you must continue to operate the Restaurants you opened before termination of the Area Development Agreement.
j. Assignment of the contract by franchisor	7.1	No restrictions on our right to assign the Area Development Agreement.
k. “Transfer” by area developer – definition	7.3, 7.4	Includes the sale of ownership in the Area Developer and the assignment of rights under the Area Development Agreement.

Provision	Section in Area Development Agreement	Summary
l. Franchisor approval of transfer by area developer	7.3	We have the right to approve any assignment made by you, but will not unreasonably withhold its consent. We may reasonably withhold our consent if the assignment would result in the transferee-area developer directly or indirectly owning more than 5 Restaurants including the Restaurant being transferred.
M. Conditions for franchisor approval of transfer	7.3, 7.6	You must: provide us with 45 days written notice of the assignment; pay all money owed to us; agree to observe all applicable provisions of the Area Development Agreement; sign a joint and mutual release between you and us (see Exhibit F); and pay the Assignment Fee. The assignee must meet the standards established by us for area developers; sign the legal agreements required by us; and successfully complete training.
n. Franchisor's right of first refusal to acquire area developer's business	10	You must offer the Major Assets to us if you receive a bona fide offer to purchase.
o. Franchisor's option to purchase area developer's business	10	We have the option to purchase at the price and terms stated in the third-party offer.
p. Death or disability of area developer	7.2	If you are an individual, the Area Development Agreement may be transferred upon your death or disability, subject to the requirements described in "m" above.
q. Noncompetition covenants during the term of the franchise	11.2	You may not participate in any Competitive Restaurant.
r. Noncompetition covenants after the franchise is terminated or expires	11.3	For 24 months after termination, you may not participate in any Competitive Restaurant that is within the Territory, 10 miles of the Territory, 10 miles of any other Cowboy Jack's Restaurant, or any other protected area granted by us.
s. Modification of the agreement	15.9	Only by written agreement between you and us.
t. Integration/merger clause	15.12	The Area Development Agreement constitutes the entire and complete agreement between you and us. Only the terms of the Area Development Agreement are binding (subject to state law). Any representations or promises outside of this Disclosure Document and the Area Development Agreement may not be enforceable.
u. Dispute resolution by arbitration or mediation	14	Except for certain claims, all disputes must be submitted to non-binding mediation. If the parties cannot resolve the claim, controversy or dispute within 60 days after conferring with the mediator, either party may submit such claim, controversy or dispute to arbitration, or to the appropriate court (if applicable).
V. Choice of forum	14.2, 15.5	State where After Midnight's headquarters are located (see attached Addendum for state law modifications).
w. Choice of law	19	State in which your Designated Market Area is located (see attached Addendum for state law modifications).

Applicable state law might require additional disclosures related to the information contained in this Item. These additional disclosures appear in the Addendum attached to this Disclosure Document.

## 18. PUBLIC FIGURES

We do not use any public figure to promote its franchise. No public figure is involved in our management.

## 19. FINANCIAL PERFORMANCE REPRESENTATIONS

The FTC's Franchise Rule permits a franchisor to provide information about the actual or potential financial performance of its franchised and/or franchisor-owned outlets, if there is a reasonable basis for the information, and if the information is included in the Disclosure Document. Financial performance information that differs from that included in Item 19 may be given only if: (1) a franchisor provides the actual records of an existing outlet you are considering buying; or (2) a franchisor supplements the information provided in this Item 19, for example, by providing information about possible performance at a particular location or under particular circumstances.

We do not make any representations about a franchisee's future financial performance or the past financial performance of Affiliate-owned Restaurants or franchised outlets. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor's management by contacting Ben Loff at 7575 Golden Valley Rd, Ste 340, Golden Valley, MN 55427, (612) 703-4028, the Federal Trade Commission, and the appropriate state regulatory agencies.

## 20. OUTLETS AND FRANCHISEE INFORMATION

TABLE NO. 1

**Systemwide Outlet Summary  
For Fiscal Years 2022/2023/2024**

<b>Outlet Type</b>	<b>Year</b>	<b>Outlets at Start of Year</b>	<b>Outlets at End of Year</b>	<b>Net Change</b>
Franchised and Licensed (1)	2022	5	5	0
	2023	5	5	0
	2024	5	5	0
Company-Owned (2)	2022	5	5	0
	2023	5	5	0
	2024	5	5	0
<b>Total Outlets</b>	<b>2022</b>	<b>10</b>	<b>10</b>	<b>0</b>
	<b>2023</b>	<b>10</b>	<b>10</b>	<b>0</b>
	<b>2024</b>	<b>10</b>	<b>10</b>	<b>0</b>

Footnote:

- (1) License agreements entered into prior to 2024 were granted by our affiliate, AMG.
- (2) Owned and operated by affiliates of After Midnight (see Item 1).

TABLE NO. 2

**Transfers of Outlets from Franchisees to New Owners  
(other than After Midnight or an Affiliate)  
For Fiscal Years 2022/2023/2024**

State	Year	Number of Transfers
Totals	2022	0
	2023	0
	2024	0

TABLE NO. 3

**Status of Franchised/Licensed Outlets  
For Fiscal Years 2022/2023/2024**

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations-Other Reasons	Outlets at End of Year
Minnesota	2022	3	0	0	0	0	0	3
	2023	3	0	0	0	0	0	3
	2024	3	0	0	0	0	0	3
North Dakota	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
	2024	1	0	0	0	0	0	1
Wisconsin	2022	1	0	0	0	0	0	1
	2023	1	0	0	0	0	0	1
	2024	1	0	0	0	0	0	1
Totals	2022	5	0	0	0	0	0	5
	2023	5	0	0	0	0	0	5
	2024	5	0	0	0	0	0	5

TABLE NO. 4

**Status of Company-Owned Outlets (1)  
For Fiscal Years 2022/2023/2024**

State	Year	Outlets at Start of Year	Outlets Opened	Outlets Reacquired from Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of Year
Minnesota	2022	4	0	0	0	0	4
	2023	4	0	0	0	0	4
	2024	4	0	0	0	0	4
Virginia	2022	1	0	0	0	0	1
	2023	1	0	0	0	0	1
	2024	1	0	0	0	0	1
Totals	2022	5	0	0	0	0	5
	2023	5	0	0	0	0	5
	2024	5	0	0	0	0	5

Footnote:

(1) Owned and operated by our affiliates (see Item 1).

**TABLE NO. 5**

**Projected Openings as of December 31, 2024**

<b>State</b>	<b>Franchise Agreements Signed But Outlets Not Opened (1)</b>	<b>Projected New Franchised Outlets in Next Fiscal Year (2)</b>	<b>Projected New Company-Owned Outlets in Next Fiscal Year (2)</b>
Minnesota	0	1	0
Florida	0	1	0
<b>Total</b>	<b>0</b>	<b>2</b>	<b>0</b>

Footnotes:

(1) As of December 31, 2024.

(2) By December 31, 2025.

As disclosed in Item 1, AMG previously offered licenses to operate Cowboy Jack's Restaurants under a different form of agreement. All Cowboy Jack's Restaurants listed in Tables 1, 2, and 3 of this Item 20 are licensees, but these licensed Restaurants are substantially similar to those described in this Disclosure Document.

If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

No current or former franchisees or licensees have signed provisions restricting their ability to speak openly about their experience with After Midnight.

There are no trademark-specific franchisee associations applicable to you, either created, sponsored or endorsed by us, or independent franchisee associations.

## **21. FINANCIAL STATEMENTS**

Attached to this Disclosure Document as Exhibit C is our audited opening day balance sheet as of April 7, 2025. Because we began franchising in 2025 and we have not been in business for three or more years, we cannot include all the financial statements required by the FTC rule.

## **22. CONTRACTS**

Attached as Exhibit D is the Franchise Agreement. Attached as Exhibit E is the Area Development Agreement.

## **23. RECEIPTS**

The last pages of this Disclosure Document are detachable Receipts.

**AMG Franchises LLC  
FRANCHISE DISCLOSURE DOCUMENT**

**EXHIBIT A**

**LIST OF CURRENT COWBOY JACK'S RESTAURANT LOCATIONS  
AS OF DECEMBER 31, 2024**

**LICENSED COWBOY JACK'S RESTAURANT LOCATIONS**

**Minnesota**

14998 Glazier Road, Ste. 2  
Apple Valley, MN 55124  
(952) 595-6372

60 E. Broadway  
Bloomington, MN 55425  
(952) 856-2988

2397 Palmer Drive  
New Brighton, MN 55112  
(651) 604-9309

**North Dakota**

506 Broadway N  
Fargo, ND 56102  
(701) 532-1802

**Wisconsin**

1432 Front Porch Place  
Altoona, WI 54720  
(715) 514-3289

## AFFILIATE-OWNED COWBOY JACK'S RESTAURANT LOCATIONS

### **Minnesota**

2801 Southtown Dr.  
Bloomington, MN 55431  
(952) 955-8137

126 North 5<sup>th</sup> St  
Minneapolis, MN 55403  
(612) 224-9950

9010 Quantrelle Ave. NE  
Otsego, MN 55330  
(763) 274-2010

4120 Berkshire Ln. N  
Plymouth, MN 55446  
(763) 559-0257

### **Virginia**

2312 Plank Rd.  
Fredricksburg, VA 22401  
(540) 371-6200

**LIST OF FORMER COWBOY JACK'S RESTAURANT LOCATIONS  
AS OF DECEMBER 31, 2024**

**FRANCHISED COWBOY JACK'S RESTAURANT LOCATIONS**

None.



**AMG FRANCHISES LLC  
FRANCHISE DISCLOSURE DOCUMENT**

**EXHIBIT B**

**AMG Franchises LLC Operating Manual Table of Contents**

**1. Introduction and Mission**

- 1.1 Welcome Message
- 1.2 Mission Statement
- 1.3 Core Values and Brand Identity
- 1.4 Customer Service Philosophy
- 1.5 Organizational Structure and Key Personnel

**2. General Policies and Procedures**

- 2.1 Code of Conduct
  - 2.1.1 Dress Code
  - 2.1.2 Professional Behavior
- 2.2 Attendance and Punctuality
- 2.3 Confidentiality Agreement
- 2.4 Communication and Reporting
  - 2.4.1 Chain of Command
  - 2.4.2 Reporting Incidents and Emergencies
- 2.5 Health and Safety Policies
  - 2.5.1 Food Safety Standards
  - 2.5.2 Workplace Safety and Sanitation

**3. Customer Service Standards**

- 3.1 Greeting and Seating Guests
  - 3.1.1 Host/Hostess Guidelines
  - 3.1.2 Wait Times and Reservations
- 3.2 Order Taking and Serving Standards
  - 3.2.1 Taking Orders Accurately
  - 3.2.2 Special Requests and Modifications
- 3.3 Service Steps and Sequence
  - 3.3.1 Greeting, Order, Service, Check-back, Payment
- 3.4 Handling Complaints and Issues
  - 3.4.1 Problem Resolution Steps
  - 3.4.2 Escalation Protocols

**4. Food and Beverage Standards**

- 4.1 Menu Descriptions and Knowledge
  - 4.1.1 Dish Ingredients and Allergen Awareness
  - 4.1.2 Recommended Pairings
- 4.2 Bar Service Protocols

- 4.2.1 Alcohol Serving Laws and Guidelines
- 4.2.2 Signature Cocktails and Recipes
- 4.3 Preparation and Presentation Standards
- 4.3.1 Kitchen Preparation Guidelines
- 4.3.2 Plating and Garnishing Standards
- 4.4 Portion Control and Cost Management

## **5. Inventory and Supply Management**

- 5.1 Ordering and Receiving Supplies
- 5.1.1 Ordering Process
- 5.1.2 Receiving Checklist
- 5.2 Inventory Tracking and Stock Levels
- 5.2.1 Food Inventory Procedures
- 5.2.2 Bar Inventory Procedures
- 5.3 Waste Management and Reduction

## **6. Financial Controls and Cash Handling**

- 6.1 Cash Drawer Procedures
- 6.1.1 Cash Register Operations
- 6.1.2 Cash Counting and Balancing
- 6.2 Point of Sale (POS) System Usage
- 6.2.1 Opening and Closing Procedures
- 6.2.2 Error Correction and Void Procedures
- 6.3 Security and Fraud Prevention

## **7. Staff Training and Development**

- 7.1 Onboarding New Employees
- 7.1.1 Orientation Program
- 7.1.2 Job-Specific Training
- 7.2 Ongoing Training Programs
- 7.2.1 Customer Service Training
- 7.2.2 Menu Updates and Tasting Sessions
- 7.3 Performance Evaluation and Feedback

## **8. Marketing and Promotions**

- 8.1 Branding Guidelines
- 8.1.1 Logo Usage
- 8.1.2 Social Media Voice and Tone
- 8.2 Marketing Channels
- 8.2.1 Social Media Platforms
- 8.2.2 Loyalty Programs and Rewards
- 8.3 Event Planning and Execution
- 8.3.1 Special Promotions
- 8.3.2 Live Events and Entertainment

## **9. Maintenance and Cleanliness Standards**

- 9.1 Daily Cleaning Routines
  - 9.1.1 Front-of-House and Dining Area
  - 9.1.2 Restrooms and Public Spaces
- 9.2 Kitchen Cleaning and Sanitation
  - 9.2.1 Equipment Cleaning
  - 9.2.2 End-of-Shift Checklist
- 9.3 Weekly/Monthly Maintenance Tasks
  - 9.3.1 Deep Cleaning Schedule
  - 9.3.2 Equipment Inspections

## **10. Emergency Procedures**

- 10.1 Fire and Safety Protocols
- 10.2 First Aid and Medical Emergency Response
- 10.3 Severe Weather and Power Outage Protocols
- 10.4 Security and Robbery Procedures

## **11. Appendix**

- 11.1 Forms and Templates
  - Employee Attendance Sheet
  - Inventory Order Form
- 11.2 Contact List
  - Management and Key Staff Contacts
  - Emergency Services
- 11.3 Restaurant Policies Summary

**AMG FRANCHISES LLC  
FRANCHISE DISCLOSURE DOCUMENT**

**EXHIBIT C**

**FINANCIAL STATEMENTS**

*Balance sheet of:*

**AMG FRANCHISES LLC**

As of April 7, 2025

**AMG FRANCHISES LLC**

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## INDEPENDENT AUDITOR'S REPORT

Board of Directors  
AMG Franchises LLC  
Libertyville, Illinois

### Opinion

We have audited the balance sheet of AMG Franchises LLC (the Company) as of April 7, 2025, and the related notes to the balance sheet.

In our opinion, the accompanying balance sheet presents fairly, in all material respects, the financial position of the Company as of April 7, 2025, in accordance with accounting principles generally accepted in the United States of America.

### Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Balance Sheet section of our report. We are required to be independent of the Company and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### Responsibilities of Management for the Balance sheet

Management is responsible for the preparation and fair presentation of the balance sheet in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the balance sheet that are free from material misstatement, whether due to fraud or error.

In preparing the balance sheet, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern for one year after the date that the balance sheet is issued.

## Auditor's Responsibilities for the Audit of the Balance sheet

Our objectives are to obtain reasonable assurance about whether the balance sheet as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the balance sheet.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the balance sheet, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the balance sheet.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the balance sheet.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

*Schechter Dotkin Kanter  
Attorneys & Solicitors Ltd.*

April 17, 2025  
Minneapolis, MN



**AMG FRANCHISES LLC**

## BALANCE SHEET

APRIL 7, 2025

**Assets:**

Current assets, cash	\$ 50,000
----------------------	-----------

Total assets	<u>\$ 50,000</u>
--------------	------------------

**Member's equity:**

Member's equity	<u>\$ 50,000</u>
-----------------	------------------

Total member's equity	<u>\$ 50,000</u>
-----------------------	------------------

**1. Nature of business and significant accounting policies:****Nature of operations:**

AMG Franchises LLC (the Company), organized on January 27, 2025. The company's primary business purpose is to serve as franchisor for Cowboy Jacks restaurants.

At April 7, 2025, the Company was developing the franchise disclosure document, franchise agreement, area development agreement and other documents that it will conduct its business under.

**Concentration of credit risk:**

Cash is maintained in a bank deposit account, which at times may exceed federally insured limits. The Company has not experienced any losses on this account and does not believe it is exposed to significant risk on cash.

**Accounting estimates:**

The presentation of the balance sheet in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the balance sheet. Actual results could differ from those estimates.

**Income taxes:**

As a limited liability company, the Company's taxable income or loss is allocated to members in accordance with their respective ownership percentage. Therefore, no provision for income taxes has been included in the balance sheet.

The Company evaluates its tax positions that have been taken or are expected to be taken on income tax returns to determine if an accrual is necessary for uncertain tax positions. As of April 7, 2025, the Company has not identified any uncertain tax positions.

**Subsequent events:**

In preparing this balance sheet, the Company has evaluated events and transactions for potential recognition or disclosure through April 17, 2025 the date the balance sheet was available to be issued.

**AMG FRANCHISES LLC  
FRANCHISE DISCLOSURE DOCUMENT**

**EXHIBIT D**

**FRANCHISE AGREEMENT**

AMG Franchises LLC  
Minnesota limited liability company  
7575 Golden Valley Rd, STE 340  
Golden Valley, MN 55427  
(612) 710-9779

## FRANCHISE AGREEMENT

### **Franchisee**

---

Legal Name

---

Street

---

City, State, Zip Code

---

Telephone Number/ Facsimile Number

---

Email Address

### **Franchised Location**

---

Street

---

City, State, Zip Code

**Date of Franchise Agreement**

\_\_\_\_\_, 20\_\_\_\_

**Restaurant No.** \_\_\_\_\_

**AMG Franchises LLC**

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**AMG FRANCHISES LLC**  
**FRANCHISE AGREEMENT**

THIS FRANCHISE AGREEMENT (this “**Agreement**”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between AMG Franchises LLC, a Minnesota limited liability company (“**After Midnight**” or “**Franchisor**”), and \_\_\_\_\_, a(n) \_\_\_\_\_ (the “**Franchisee**”).

In consideration of the mutual promises and covenants set forth in this Agreement, After Midnight and Franchisee agree as follows:

**SECTION 1**  
**GRANT OF FRANCHISE**

**1.1 Cowboy Jack’s System.**

Franchisor has developed a distinctive business for operating and franchising restaurants featuring a variety of Food, Beverages, and Products which are associated with the Marks, copyrights, distinctive interior and exterior building designs, décor, furnishings, menus, uniforms, signs, color combinations, uniformity requirements, standards of consistency and quality, procedures, cleanliness, sanitation, controls, specifications, training, advertising promulgated by Franchisor, all of which are offered in a distinctive, country western themed environment (the “**Cowboy Jack’s System**”). Franchisor has extensively publicized the names, “Cowboys,” “Cowboy Jacks,” “Cowboy Jacks Saloon,” and “Cowboy Jack’s Saloon and Restaurant” to the public as an organization of restaurant businesses operating under the Cowboy Jack’s System. Franchisor may modify the Cowboy Jack’s System in the exercise of its business judgment and may authorize regional or local variations in the Cowboy Jack’s System, tests of potential new menu items or products, and the introduction of menu items or products in stages over time, all in the exercise of its business judgment to enhance the marketing, consumer acceptance, competitive position, compliance obligations, and other objectives intended to facilitate operations over the Term.

**1.2 Marks.**

Franchisor has the right and authority to license the use of the name “Cowboy Jack’s” and the other Marks for use in connection with the Cowboy Jack’s System to selected persons, businesses or Entities that will comply with its uniformity requirements and quality standards. Franchisor intends, in the exercise of its business judgment, to develop, use and control the use of the Marks in order to identify for the public the source of the Foods, Beverages, and Products and related services marketed under the Cowboy Jack’s System, and to represent to the public the Cowboy Jack’s System’s high standards of quality, appearance, cleanliness and service.

**1.3 Franchisee’s Objective.**

Franchisee desires to develop, own and operate a Cowboy Jack’s restaurant (the “**Restaurant**”) in strict conformity with the Cowboy Jack’s System and its uniformity requirements and quality standards, as Franchisor may establish from time to time, and all other terms of this Agreement. Franchisee understands the importance of the high standards of quality, appearance, procedures, controls, cleanliness and service that Franchisor has established, and the necessity of operating the Restaurant in strict conformity with Franchisor’s standards and specifications.

#### **1.4 Personal Guaranty.**

All Owners of Franchisee who own 20% or more of the Ownership Interests of Franchisee (and, if married, such Owners' spouses), and (b) the Owners of at least 50% of the total Ownership Interests of Franchisee (and, if married, such Owners' spouses), must sign the Personal Guaranty attached to this Agreement.

#### **1.5 Grant of Franchise.**

(a) Franchise Grant and Location. Franchisor hereby grants Franchisee the personal right to operate one Cowboy Jack's Restaurant in conformity with the Cowboy Jack's System using the name "Cowboy Jack's" and other specified Marks at the Franchised Location set forth and described in the Addendum attached to this Agreement. Except as expressly granted to Franchisee in this Section 1.5, all rights respecting protected and designated market areas, venues and types of operation, are outside the scope of this Agreement and, as between Franchisor and Franchisee, will remain vested in and be retained by Franchisor. Rights granted to Franchisee in this Section 1.5 are strictly limited to those expressly granted and may not be enlarged or modified by interpretation, implication or any other process. Franchisee has no right to franchise, sub-franchise, license, or sublicense its rights under this Agreement, or any part thereof. Franchisee will not have the right to Assign this Agreement or its rights under this Agreement in whole or in part, or to Assign the income stream from the operation of the Restaurant, except as specifically provided in this Agreement.

(b) Designated Market Area. Subject to the limitations of this Section 1.5, Franchisee will operate the Restaurant only at the Franchised Location in the Designated Market Area set forth in the Addendum attached to this Agreement. Franchisee's Designated Market Area consists of an area around the Franchised Location, the specific size of which has been determined, in consultation with Franchisee, by Franchisor in the exercise of its reasonable business judgment. The Designated Market Area may be expressed with reference to a radius, to roadways, to natural and/or man-made landmarks, or such other identifiers as Franchisor determines. Franchisee accepts such determination.

(c) Limited Exclusivity. Franchisor will not Develop any other Cowboy Jack's restaurant within Franchisee's Designated Market Area. No other type of Franchisee exclusivity is intended. Franchisor and its licensees, appointees, designated franchisees and agents have the absolute and exclusive right to advertise, promote, and sell all of the Foods, Beverages, and Products associated with the Cowboy Jack's System at special promotions conducted within or outside of the Designated Market Area. Franchisor has the absolute and exclusive right to (i) Develop other restaurant business concepts of any kind under other brand names anywhere, even if the locations for the concepts are within the Designated Market Area; and (ii) Develop Cowboy Jack's restaurants in the Designated Market Area if they are located at or within an airport, a train station or other mass transit facility, a theme or entertainment park, a stadium or arena or other venue for semi-professional or professional sports, a military installation, within the boundaries of a school, college, university, or hospital, or at other similar venues that Franchisor determines, in the exercise of its reasonable business judgment, to be entirely or in principal part "captive markets." Franchisor has the absolute and exclusive right to, market, distribute, and sell or license for sale, on a wholesale or retail basis, seasonings, sauces, food products, clothing, or any other products under any of the Marks, by direct sale, the Internet, mail order, infomercials, telemarketing, or by any other marketing or distribution method, even if such sales are made to customers, distributors, or retailers or ultimate consumers who are located in the Designated Market Area. Franchisor further reserves the right to own, operate, manage, franchise and/or license other individuals or entities to own, manage and/or operate Competitive Restaurants in Franchisee's Designated Market Area or

Territory if Franchisor or Franchisor's affiliate derived its ownership interests or other rights to such restaurants after the date of this Franchise Agreement or the Area Development Agreement as part of an acquisition or purchase of a majority of the ownership interests in, or substantially all of the assets of, another entity.

(d) Undetermined Franchised Location. If the Franchised Location has not yet been determined as of the date of this Agreement, then when the address of the Franchised Location is determined, the street address, city and state for the Franchised Location will be inserted in the attached Addendum to this Agreement and signed by both Franchisor and Franchisee, and the Addendum, as completed, will amend this Agreement.

(e) Required Opening Date. Franchisee will, at its sole expense, cause Franchisee's Restaurant to be open and operating in compliance with Franchisor's standards and specifications on or before the Required Opening Date. Time is of the essence and Franchisee's failure to open the Restaurant by the Required Opening Date is a material breach of this Agreement, entitling Franchisor to exercise all rights with respect thereto, including termination. Notwithstanding the foregoing, (i) if the failure to open before the Required Opening Date is due to fire or other casualty or act of God, Franchisor may, in the exercise of its reasonable business judgment, extend the Required Opening Date in writing for up to 6 months after the date of the casualty event; and (ii) if Franchisee will not be able to meet the deadline. Franchisee may request one extension of the Required Opening Date, for a period no greater than 60 days, by giving written notice to Franchisor before the Required Opening Date that describes and certifies the legitimate reasons for the delay. Franchisee must submit such written notice no less than 45 days prior to the original Required Opening Date. In the event that Franchisor decides to grant Franchisee's request for an extension, such extension will be based on Franchisor's sole judgment and on such terms and conditions as Franchisor may then determine, and shall be expressed in a written extension signed by both Franchisor and Franchisee. No rights to any further extensions are contemplated by Franchisor or Franchisee.

## **SECTION 2**

### **TERM OF AGREEMENT**

#### **2.1 Term.**

The term of this Agreement will commence on the date of this Agreement and will expire on the date that is 10 years after the Required Opening Date, unless earlier terminated in accordance with this Agreement (the "**Term**").

#### **2.2 Franchisee's Option to Renew the Franchise.**

(a) Terms of Renewal. At the end of the Term, Franchisee has the right to renew the Franchise for the Franchised Location for 2 additional 5-year terms, provided that Franchisee has timely complied with all terms and conditions of this Agreement including the timely payment of all Royalty Fees and other Fees due, and further provided that: (i) Franchisee has given Franchisor written notice at least 180 days prior to the end of the Term of Franchisee's intention to renew the Franchise for the Franchised Location; (ii) all monetary obligations owed by Franchisee to Franchisor have been paid or satisfied prior to the end of the Term; (iii) Franchisee has agreed, in writing, to make the reasonable capital expenditures necessary to remodel, redecorate, and renovate the Franchised Location to comply with Franchisor's then-current standards for image, décor, among other specifications; (iv) Franchisee either owns or has the right to lease the Franchised Location for a term that coincides with the additional 5-year term; (v) Franchisee, its Management

Staff, and its employees have completed Franchisor's required training; (vi) Franchisee and its Owners execute a release in a form satisfactory to Franchisor releasing and discharging Franchisor and its directors, officers, Affiliates, successors and assigns from and against all Claims and demands which Franchisee may have against Franchisor and the other released parties; and (vii) Franchisee executes Franchisor's then-current standard franchise agreement, provided that (1) Franchisee will pay Franchisor a Renewal Fee equal to 10% of the Initial Fee specified in the then-current standard franchise agreement in lieu of the Initial Fee thereunder, (2) the then-current standard franchise agreement will provide that Franchisee will pay a royalty fee equal to the Royalty Fee set forth in this Agreement, and (3) there will be no further right or option to renew the Franchise or further extend the term of such franchise agreement (unless the agreement is for Franchisee's first 5-year additional term, in which case Franchisee will have the right to renew the Franchise for one additional 5-year term). The terms, conditions and economics of future franchise agreements may vary substantially in substance and form from this Agreement. With the exception of the Royalty Fee discussed above, Franchisee shall pay all other Fees at the rates specified in the then-current standard franchise agreement.

(b) Franchise Agreement Terms. Any renewal of the Franchise shall not be effective unless and until Franchisee executes Franchisor's then-current standard franchise agreement (modified to reflect the Renewal Fee and the fact that the franchise agreement is for a 5-year renewal term only) at least 30 days before the expiration of the original Term.

### **SECTION 3**

#### **INITIAL FEE AND ROYALTY FEES**

#### **3.1 Initial Fee.**

Franchisee will pay Franchisor a non-refundable Initial Fee of \$45,000 on the date Franchisee signs this Agreement; provided however, that if this Agreement is signed in compliance with an Area Development Agreement between Franchisor and Franchisee (or a Controlled Entity, as defined in the Area Development Agreement), then the amount of the Initial Fee payable to Franchisor will be the amount specified in the Area Development Agreement. In all instances, the Initial Fee will be nonrefundable and will be fully earned by Franchisor when the Initial Fee is paid by Franchisee.

#### **3.2 Royalty Fee; Date Payable.**

(a) Royalty Fee. From the date of the opening of the Restaurant, Franchisee shall pay Franchisor a fee equal to the greater of (i) 5% of the Restaurant's Gross Sales for the previous month, or (ii) \$2,300 (the "**Royalty Fee**"). The Royalty Fee is payable on the tenth day of each month (the "**Payment Date**"), or at such other time as Franchisor may designate. In all cases, the Royalty Fee is payable by Franchisee on the Payment Date with respect to the previous month's Gross Sales, unless that day is a non-business day, in which case the Royalty Fee is payable to Franchisor on the next business day. Franchisee's obligation to pay Royalty Fees pursuant to the terms of this Agreement is absolute and unconditional, and remains in full force and effect for the entire Term of this Agreement.

(b) Gross Sales Reports. Franchisee will maintain an accurate and durable written record of the daily, weekly, and monthly Gross Sales for Franchisee's Restaurant and shall timely submit Gross Sales Reports. The Gross Sales Reports will be electronically transmitted to Franchisor by Franchisee by 12:00 noon, Central Time on the Payment Date for the previous month or be available for retrieval by Franchisor from Franchisee's point of sale system anytime after 12:00 noon Central Time on the Payment Date for the previous Month. All Gross Sales Reports for the

Restaurant will align to Franchisor's fiscal calendar and will be in the form that Franchisor specifies. The Gross Sales Report will contain the following information: (i) the month for the Royalty Fees were calculated; (2) the total Gross Sales for Franchisee's Restaurant during the month; (3) the POS system records for Gross Sales sold for Franchisee's Restaurant during the month; and (4) the amount of Royalty Fees due as payable.

(c) Overdue Payments. All overdue payments in this Section 3 and in Section 4 below shall bear interest from the date due at the lower of: (i) 18% per annum; or (ii) the highest rate allowed by applicable law. Overdue payments will be applied first to Franchisee's oldest obligation regardless of any designation by Franchisee to the contrary. This interest shall accrue regardless of whether Franchisor exercises its right to terminate this Agreement due to Franchisee's default in payment of Royalty Fees or other payments or for any other reason.

## **SECTION 4**

### **MARKETING FUND FEE**

#### **4.1 Marketing Fund Fee.**

In addition to all amounts payable to Franchisor by Franchisee, Franchisee must pay Franchisor a marketing fund fee (the "**Marketing Fund Fee**") equal to 1% of the Gross Sales generated by Franchisee's Restaurant for the preceding Month on the Payment Date, unless that day is a non-business day, in which case the Marketing Fund Fee is payable to Franchisor on the next business day. The Marketing Fund Fees will be deposited into one or more local, regional, national or international Marketing Funds (collectively, the "**Fund**" or the "**Marketing Fund**"), which Franchisor will exclusively administer and control.

#### **4.2 Use of Marketing Fund Fees.**

Franchisor will determine when, how and where the Marketing Fund Fees and other payments will be deposited into the Fund and how the Fund will be spent in the exercise of Franchisor's reasonable business judgment. This includes, without limitation, the right to purchase and pay for product and market research, market strategy, production development, production of point-of-sale materials, ads, brochures, radio and television commercial production costs, services provided by advertising agencies, maintaining sales and marketing staff and related expenses (including reasonable salaries, administrative costs, travel expenses, overhead and similar expenses that Franchisor may incur in activities related to the administration of the Marketing Fund), in-store advertising, signs, public relations, telemarketing, direct mail advertising, promotional programs, advertising market research, brand development, online media, graphics and design costs, creation and maintenance of a website for the Cowboy Jack's System, Internet costs, miscellaneous advertising costs, expenditures for items, materials and services provided by third parties, the costs incurred in administering the Marketing Fund, other costs and expenses as Franchisor deems appropriate and in the best interests of all Cowboy Jack's restaurants and the Cowboy Jack's System, and for local, regional, national and/or Cowboy Jack's System wide promotional programs and advertising. All costs for the administration of the Fund, collection costs and office supplies will be paid from the Fund (including attorneys' fees paid in collecting past due Marketing Fund Fees or in addressing disputes of any kind involving the Fund and its expenditures).

#### **4.3 Management of Fund.**

Franchisor will manage the Marketing Fund, and Franchisor will have the right to, in its business judgment, do any of the following: (a) compensate Franchisor and/or its Affiliates for salaries, administrative costs, overhead and other expenses incurred in Marketing Fund related programs/activities including, but not limited to, production, research, insurance, and collection expenses, as well as any legal expense related to



the activities and purposes of the Marketing Fund consistent with the provisions of this Agreement; (b) charge the Marketing Fund for attorneys' fees and other costs related in any way to Claims against Franchisor regarding the Marketing Fund; (c) spend in any fiscal or calendar year an amount greater or less than the aggregate contributions to the Marketing Fund in that year, and the Marketing Fund may borrow from Franchisor or other lenders to cover deficits of the Marketing Fund or cause the Marketing Fund to invest any surplus; (d) loan money to the Marketing Fund for the purposes set forth herein; provided however, that all such loans by Franchisor to the Marketing Fund will be evidenced by a promissory note and will bear interest at the rate that is equal to the prime rate of interest quoted by the Money and Investing section of the Wall Street Journal on the date of the loan, plus 300 basis points; (e) collect for remission to the Marketing Fund any Payments made by any supplier based upon franchisee purchases; provided however, that any such contributions, whether or not made with respect to direct or indirect purchases by Franchisee, will not count toward Franchisee's required Marketing Fund Fees; (f) revise marketing and other programs, and/or make expenditures from the Marketing Fund, to take account of cultural and other differences; (g) defer, waive and/or compromise Claims for current/future contributions to, and/or Claims against or with respect to, the Marketing Fund and pay the same from the Marketing Fund; (h) take legal or other action against any franchisee in default of their obligations to the Marketing Fund; (i) merge the Marketing Fund with any other advertising, production or marketing fund otherwise established for Cowboy Jack's restaurants; (j) maintain the Marketing Fund assets in one or more accounts designated as "trust accounts" for purposes of protecting such assets from Claims of third-party creditors, (however, such action shall not be deemed to create any "trust," "fiduciary relationship" or similar special arrangement); and (k) take such other actions in connection with the Marketing Fund as Franchisor considers to be appropriate and as are consistent with the provisions of this Section. Franchisor and Franchisee agree that the Fund is not a trust or escrow account, and that Franchisor does not have any fiduciary obligations regarding the Fund. Franchisor is not required to spend the Marketing Fund Fees in any particular geographic or Designated Media Market and have no obligation to spend the Marketing Fund Fees in Franchisee's market area in proportion to the Marketing Fund Fees paid by Franchisee. Franchisor is not required to spend the Marketing Fund Fees in the calendar year in which the payments were made. Payments to the Fund not spent in the calendar year in which they were paid and the interest accrued will remain in the Fund. A summary showing the income to the Fund and the expenditures made from the Fund during each calendar year will, upon written request, be provided to Franchisee on a confidential basis no more frequently than once per year.

## **SECTION 5**

### **OTHER ADVERTISING AND PROMOTION**

#### **5.1 Approved Advertising.**

Franchisee will not conduct any advertising and/or promotion programs for its Restaurant, without Franchisor's written approval. Franchisee's use of advertising, marketing and promotional materials provided to Franchisee in the Operations Manual or that Franchisor otherwise furnishes to Franchisee will be deemed to have been approved by Franchisor. Franchisee will not permit any party to advertise its business, services or products on the premises of the Franchised Location or in connection with Franchisee's Restaurant.

#### **5.2 Local Advertising.**

Franchisee will, each calendar year during the Term, spend at least \$2,500 on approved local advertising for its Restaurant, as specified in the Operations Manual ("**Local Advertising**"). On the first Monday of each calendar month, Franchisee will, in the prescribed form, furnish Franchisor with an accurate accounting of Franchisee's expenditures for Local Advertising for the previous month, if any. If Franchisee fails to spend \$2,500 for approved Local Advertising in any calendar year, Franchisee will deposit with

Franchisor the difference between the amount Franchisee was required to spend and the amount actually spent by Franchisee. Franchisor will have the right to spend all of the funds deposited by Franchisee under this provision for advertising and promotion in Franchisee's Designated Media Market in the manner that Franchisor deems appropriate.

### **5.3 Local Advertising Association.**

When two or more independently owned or controlled Cowboy Jack's restaurants, including Franchisee's Restaurant, are opened in Franchisee's Designated Media Market (or such other market area that Franchisor designates), Franchisor will have the right to require, in its sole discretion, that Franchisee's Restaurant (and the other Cowboy Jack's restaurants in the Designated Media Market) participate in a local Designated Media Market advertising group (the "**Local Advertising Association**" or the "**LAA**") which will conduct and administer media advertising, promotion, marketing and public relations ("**Production and Marketing**") for the benefit of the Cowboy Jack's restaurants located in the Designated Media Market. At such time as Franchisor requires that Franchisee participate in a Local Advertising Association for the Restaurants in its Designated Media Market, the LAA will be subject to the following terms and conditions:

- (a) The LAA will consist of all Cowboy Jack's restaurants in the Designated Media Market, including the Cowboy Jack's restaurants in the Designated Media Market owned by Franchisor or its Affiliate(s).
- (b) Each Cowboy Jack's restaurant in the Designated Media Market, including the Cowboy Jack's restaurants owned by Franchisor or its Affiliate(s) will be a "Member" of the LAA. Each Member will have one vote for each franchised or company-owned Restaurant owned by it in the Designated Media Market on all matters to be voted upon at duly convened meetings.
- (c) Each Member will be given 5 days written notice of any proposed meeting. A quorum consisting of a majority of all Members of the LAA will be required to convene any meeting of the LAA. A majority vote by the Members present at a duly convened meeting will be required to pass any proposed resolutions or motions. All meetings will be conducted according to Robert's Rules of Order.
- (d) The purpose of the LAA will be to conduct Production and Marketing for the benefit of all Cowboy Jack's restaurants located in the Designated Media Market.
- (e) The LAA will not conduct any Production and Marketing program or campaign for the Cowboy Jack's restaurants in the Designated Media Market unless and until Franchisor has given the LAA prior written approval for all concepts, materials or media proposed for any such Production and Marketing program or campaign.
- (f) On or before the Payment Date, each Member of the LAA will contribute to the LAA at least an amount equal to 1% of the Gross Sales generated during the previous month by the Member's Cowboy Jack's restaurant (the "**Local Advertising Fee**"). The Local Advertising Fee contributed by the Members will be used by the LAA for Production and Marketing programs and campaigns for the benefit of all Cowboy Jack's restaurants in the Designated Media Market. The cost of all Production and Marketing in the Designated Media Market must be approved by a majority vote of all Members present at a duly convened meeting. If the cost of the Production and Marketing approved by the Members exceeds the amount of funds available to the LAA, then the Local Advertising Fee payable by Franchisee and all other Members to the LAA pursuant to this subsection (f) may be increased by vote of a majority of the Members present at a duly convened

meeting. Franchisee will contribute the amount of the Local Advertising Fee agreed to by the Members to the LAA in accordance with this provision.

(g) The LAA will, within 20 days after the end of each calendar quarter, furnish to Franchisor and the Members in the form that Franchisor prescribes, a written summary of the Members' contributions to the LAA and an accurate accounting of the LAA's expenditures for approved Production and Marketing.

(h) The Local Advertising Fee paid by Franchisee to the LAA will be applied to satisfy the Local Advertising requirement set forth in Section 5.2 of this Agreement. Otherwise, contributions to the LAA by Franchisee pursuant to this provision will be in addition to the payment of the Marketing Fund Fee and the other advertising obligations of Franchisee set forth in this Agreement.

#### **5.4 Grand Opening Promotions**

Prior to the opening of the Franchised Location, Franchisor will provide to Franchisee certain grand opening promotional items, including gift certificates, press releases, and other location specific items (the "**Grand Opening Promotional Package**"). Franchisor reserves the right to add to, alter, or remove items from the Grand Opening Promotional Package, in its sole discretion.

#### **5.5 Franchisee Advisory Council.**

Franchisor has the right to create a "Franchisee Advisory Council," or similar advisory group, for the purpose of fostering communication among and between franchisees and Franchisor and its Affiliate(s), as well as to establish, modify or discuss various policies applicable to Restaurants operating under the Cowboy Jack's System, including policies pertaining to advertising. If and when Franchisor create a Franchisee Advisory Council, Franchisor has the right to require that Franchisee participate in such Franchisee Advisory Council meetings and programs as Franchisor may designate. Franchisee will be responsible for any costs and expenses that it incurs in participating in the Franchisee Advisory Council including, without limitation, the costs of transportation, lodging, and meals. Franchisor may form, change, or dissolve the Franchisee Advisory Council at any time.

### **SECTION 6**

#### **PAYMENT OF FEES AND OTHER AMOUNTS**

#### **6.1 Interest on Unpaid Fees.**

If Franchisee fails to timely remit any Fees or other amounts due to Franchisor, then the amount of the past due payment will bear simple interest at the lesser of the maximum legal rate allowable by applicable law or 18% simple interest per annum. Franchisee will, on the date invoiced, immediately reimburse Franchisor for any and all costs that Franchisor incurs in the collection of any past due payments, including attorneys' fees and costs. Franchisee has no "right of offset" and, as a consequence, Franchisee must timely pay any and all amounts due to Franchisor under this Agreement regardless of any Claims Franchisee may allege against Franchisor.

#### **6.2 Payment Method.**

The Fees will be paid to Franchisor by electronic transfer ("**EFT**"), using such methods and technologies for effecting payment as Franchisor may specify. Such methods may be modified from time to time by Franchisor in writing, as Franchisor solely determine, in order to reflect improvements and new technologies available for fund reporting and transfer. Franchisee agrees to adopt and install any equipment

needed to implement such changes and enter into any and all agreements required in connection therewith. As of the date of this Agreement, Franchisor draws payment due to Franchisor using electronic transfers from Franchisee's designated bank account. Accordingly, at the same time as this Agreement is executed, Franchisee must sign the electronic transfer of funds authorization, attached to this Agreement as Exhibit A, authorizing and directing Franchisee's financial institution to transfer electronically, directly to Franchisor, and to charge Franchisee's account all amounts owed to Franchisor under this Agreement when due, except in the event that Franchisor notifies Franchisee that certain amounts need not be paid via electronic transfer of funds. Franchisee must at all times maintain a balance in its account sufficient to allow Franchisor to collect the amount owed when due. Franchisee is responsible for any fees, penalties, fines, or other similar expenses associated with the transfer of funds described in this section.

### **6.3 Franchisee's Obligation to Pay.**

Franchisee's obligation to pay Franchisor the Fees pursuant to the terms of this Agreement are absolute and unconditional, and will remain in full force and effect for the entire term of this Agreement.

## **SECTION 7** **FINANCIAL STATEMENTS**

### **7.1 Financial Statements.**

Franchisee will adopt the Accounting Year for financial reporting purposes specified by Franchisor in the Operations Manual or otherwise in writing. Franchisee will, at its expense, prepare Financial Statements that will be delivered to Franchisor within 90 days after the end of Franchisee's Accounting Year. In addition, if Franchisee has received a notice of default from Franchisor, Franchisee will, at its expense, prepare Financial Statements that will be delivered to Franchisor within 10 days after the end of each four-Week period until such time as Franchisee has received written notice from Franchisor that it is no longer in default hereunder. All Financial Statements will be prepared in accordance with generally accepted accounting principles in the form or forms that Franchisor prescribes, and must include, as subject to change at Franchisor's sole discretion, comparative financials that display current period performance versus the performance in that same period in the preceding year; the Financial Statements will conform to the Accounting Year and standard chart of accounts that Franchisor prescribes in this Agreement or the Operations Manual. The Financial Statements must be verified by an officer or Owner of Franchisee as to their accuracy and completeness.

### **7.2 Sales and Income Tax Returns.**

Within 3 business days after receipt of a written request, Franchisee will furnish Franchisor with complete signed copies of all sales tax returns and income tax returns for Franchisee's Restaurant for the fiscal years or other periods requested.

### **7.3 Audit Rights.**

Within 3 business days after receiving written notice from Franchisor, Franchisee and Franchisee's accountants will make all of the Financial Records available during business hours for Franchisor or designees to review, copy and audit. The Financial Records for each Accounting Year will be maintained by Franchisee in a safe place for each of the last 5 Accounting Years. The audit will be conducted at the location where Franchisee maintains the Financial Records and Franchisor will be provided with adequate facilities by Franchisee to conduct the audit. Franchisor will maintain the confidentiality of all Financial Records; however, if the Financial Records are relevant to any issue in any mediation, court or other

proceeding between the parties, then Franchisor will have the right to disclose the Financial Records accordingly.

#### **7.4 Payment of Audit Costs.**

If an audit of Franchisee's Financial Records reveals any deficiencies in the Fees payable to Franchisor, then Franchisee will, within 5 days after receipt of an invoice, pay to Franchisor any deficiency owed, together with interest and Administrative Fees as provided for herein. In addition, if an audit establishes that Franchisee's Gross Sales were understated by more than 2% in any month, Quarter or Accounting Year, then Franchisee will, within 10 days after receipt of an invoice, pay Franchisor for all costs and expenses incurred for the audit of Franchisee's Financial Records (including employee Salaries and Benefits, Travel Expenses, and audit fees).

#### **7.5 Access to Information.**

Franchisee will, at its expense, install and maintain equipment to permit Franchisor to access and retrieve over telephone lines, the Internet or other forms of telecommunication all information Franchisor is entitled to obtain from Franchisee under this Agreement, including all information which is stored on Franchisee's point of sale system and computers and the Gross Sales Reports for the Restaurant. Franchisee will install and utilize at the Franchised Location (a) the equipment and software specified in the Operations Manual to permit Franchisor to electronically inspect, monitor and retrieve at any time all information concerning Franchisee's Restaurant, Gross Sales and other information contained in Franchisee's point of sale system and computers, and (b) the telephone line, modem, Internet connection or other electronic communication portal required to permit Franchisor to access Franchisee's point of sale system and computers by telephone or the Internet at all of the times specified in the Operations Manual. Franchisee agrees and acknowledges that Franchisor has the right to access and retrieve all information concerning Franchisee and the Restaurant that is stored on Franchisee's point-of-sale system and computers.

### **SECTION 8** **STANDARDS REQUIRED OF FRANCHISEE**

#### **8.1 Quality and Service Standards.**

Franchisor has developed and will continue to develop uniform standards of quality, cleanliness and service applicable to all Cowboy Jack's restaurants, including Franchisee's Restaurant, to protect and maintain for the benefit of Franchisor and its franchisees the distinction, valuable goodwill and uniformity represented and symbolized by the Marks and the Cowboy Jack's System. Franchisee agrees to maintain the uniformity and quality standards that Franchisor requires for all Foods, Beverages, and Products, and the services associated with the Marks and the Cowboy Jack's System, and agrees to the terms and conditions contained in this Section to assure the public that all Cowboy Jack's restaurants will be uniform in nature and will sell and dispense quality Foods, Beverages, and Products. Required specifications, standards and operating procedures exist to protect Franchisor's interests in the Cowboy Jack's System and the Marks and to create a uniform customer experience, and not for the purpose of establishing any control or duty to take control over those matters that are reserved to Franchisee.

#### **8.2 Identification of Restaurant.**

Franchisee will operate the Restaurant so that it is clearly identified and advertised as a Cowboy Jack's Restaurant. The style and form of "Cowboy Jack's" and the other Marks used in any advertising, marketing, public relations or promotional program must have Franchisor's prior written approval. Franchisee will

use the name “Cowboy Jack’s,” the approved logos and all graphics commonly associated with the Cowboy Jack’s System and the Marks on all materials in the manner that Franchisor prescribes.

### **8.3 Compliance with Standards.**

Franchisee will use the Marks and the Cowboy Jack’s System in strict compliance with the mandatory moral and ethical standards, quality standards, health standards, operating procedures, data security standards, and other specifications, requirements and instructions that Franchisor requires. It is understood and agreed that the mandatory standards established by this Agreement including, but not limited to, the inspection and audit rights provided in this Agreement, and the provisions of the Operations Manual are reasonable means by which Franchisor seeks to avoid and prevent conduct which is likely to impair the value of and the goodwill associated with the Marks and the Cowboy Jack’s System being licensed under this Agreement and do not reflect any right or effort by Franchisor to control the day-to-day operation of the Restaurant or the business decisions of Franchisee. Franchisee agrees to comply with all mandatory provisions of the Operations Manual, as Franchisor may revise from time to time in the exercise of its business judgment; provided, however, that those portions of the Operations Manual that are expressly designated as recommendations are not intended to limit or control the business decisions of Franchisee. Franchisee understands and acknowledges that over the Term it may be appropriate for Franchisor, in the exercise of its business judgment, to adopt standards and business principles needed to maintain the reputation, legal status or competitive position of the Marks and the Cowboy Jack’s System and to reflect such details in the Operations Manual. To the extent that the Operations Manual, as it may be amended from time to time, conflicts with this Agreement, the provisions of the Operations Manual then in effect shall control. Franchisee further understands and acknowledges that due to local circumstances, Franchisor may occasionally adopt different standards and business principles to apply to different market areas or types of Cowboy Jack’s restaurants.

### **8.4 Franchisee’s Name.**

Franchisee will not use the name “Cowboy Jack’s” or any derivative thereof in the name of the Entity that is Franchisee or in any name of an Affiliate or Controlled Entity of Franchisee in any incorporation, organization, or other legal formation documents filed with any state government or agency. Franchisee will hold itself out to the public and to its employees as an independent contractor operating an independently owned and operated Restaurant pursuant to a license from Franchisor, using such signage and other forms of notification as Franchisor prescribes. Franchisee will file for a certificate of assumed name in the manner required by applicable state law to notify the public that Franchisee is operating its Restaurant as an independent contractor operating an independently owned and operated business.

### **8.5 Interests of Franchisee.**

Franchisee will be dedicated solely to the operation of Franchisee’s Restaurant(s) and will not hold any interest in, operate, or manage any other business of any kind without Franchisor’s prior written approval.

### **8.6 Default Notices and Significant Correspondence.**

Franchisee will deliver to Franchisor, immediately upon receipt by Franchisee or delivery at the Franchised Location, an exact copy of all (a) notices of default received from the landlord of the Franchised Location or any mortgagee, trustee under any deed of trust, contract for deed holder, lessor, or any other party, (b) notifications or other correspondence relating to any legal proceeding for any Claim in excess of \$10,000 relating in any way to Franchisee’s Restaurant or to the Franchised Location, and (c) inspection reports or any other notices, warnings or citations from any Governmental Authority, including any health and safety, taxing and/or licensing authorities. Franchisee will notify Franchisor in writing within 5 days of the

commencement of any proceeding and/or of the issuance of any governmental order or action impacting Franchisee and/or the operation of the Restaurant. Within 10 days after the end of each month, Franchisee will provide Franchisor with a written summary of all written consumer and employee complaints. Franchisee will provide all additional information requested by Franchisor relating to any of these matters.

#### **8.7 Catastrophes.**

If the Franchised Location is either partially or completely destroyed by fire or any catastrophe and the term of this Agreement and underlying Lease for the Franchised Location has a remaining term of at least 5 years, then Franchisee will (a) use the building insurance proceeds to repair or reconstruct the Franchised Location as set forth herein, (b) within 30 days thereafter, initiate the process to commence the repairs and reconstruction necessary to restore the Restaurant to its original condition prior to such casualty, and (c) recommence the Restaurant's business operations as soon as reasonably possible. Notwithstanding the foregoing, Franchisee will pay Franchisor the minimum Royalty Fee of \$2,300 per month during the time that Franchisee's Restaurant is closed as a result of a casualty, a relocation of the Restaurant, or any other reason (or a pro-rated portion of such fee in the event the Restaurant is not closed for the entire four-Week period).

#### **8.8 Vending and Gaming Machines; Live Music.**

Franchisee will not, except with Franchisor's written permission, permit any jukeboxes, performances of live music, electronic games, vending machines, ATMs, newspaper racks, entertainment devices, coin- or token-operated machines, or gambling devices or kiosks to be used on the Restaurant premises and will not sell or allow employees to sell any tickets, subscriptions, chances, raffles, lottery tickets or pull tabs.

#### **8.9 Compliance with Applicable Law.**

Franchisee is responsible for the operation of its Restaurant, and will control, supervise, and manage all the employees, agents, and independent contractors who work for or with Franchisee. Franchisor will not have any right, obligation, or responsibility to control, supervise or manage Franchisee's employees, agents, or independent contractors. Franchisee will advise its employees, agents and independent contractors of the foregoing facts, in writing, upon hiring or contracting with them, and in any employee manual or human resources materials made available to employees, agents or independent contractors. Franchisee will comply with all applicable federal, state, city, local and municipal laws, statutes, ordinances, rules and regulations pertaining to the construction or remodeling and the operation of Franchisee's Restaurant including, but not limited to: (a) health, food service, business, and liquor licensing laws; (b) health and safety regulations and laws; (c) environmental laws; and (d) employment laws (including all wage and hour laws, employment laws, workers' compensation laws, discrimination laws, sexual harassment laws, disability and discrimination laws and laws and regulations governing employment of aliens); and (e) credit, charge, courtesy and cash card transactions and processing. Franchisee will, at its expense, be solely and exclusively responsible for determining the licenses and permits required by law for Franchisee's Restaurant, for obtaining and qualifying for all licenses and permits, and for compliance with all applicable laws by its employees, agents and independent contractors. Notwithstanding any rights or obligations set forth herein, no part of this Agreement shall be read to require Franchisee to engage in acts or practices that violate any law.

#### **8.10 Tax Laws.**

Franchisee will comply with all tax laws (including those relating to individual and corporate income taxes, sales and use taxes, franchise taxes, gross receipts taxes, employee withholding taxes, F.I.C.A. taxes, inventory taxes, liquor taxes, personal property taxes and real estate taxes, and federal, state and local

income tax laws). Franchisor will have no liability for any taxes which arise or result from Franchisee's Restaurant and Franchisee will indemnify Franchisor for any such taxes that may be assessed or levied against Franchisor which arise out of or result from Franchisee's Restaurant. If any "franchise" or other tax which is based upon the Gross Sales, receipts, sales, business activities, or operation of Franchisee's Restaurant is imposed upon Franchisor by any taxing authority, then Franchisee will reimburse Franchisor for all such taxes that Franchisor pays.

#### **8.11 Other Laws.**

Franchisee will comply and/or assist Franchisor in its compliance efforts, as applicable, with any and all laws, regulations, Executive Orders or otherwise relating to anti-terrorist activities including, without limitation, the U.S. Patriot Act, Executive Order 13224, and related U.S. Treasury and/or other regulations. In connection with such compliance efforts, Franchisee will not enter into any prohibited transactions and will properly perform any currency reporting and other activities relating to the Restaurant business as may be required by Franchisor or by law. Franchisee confirms that it is not listed in the Annex to Executive Order 13224, and agrees not to hire any person so listed or have any dealing with a person so listed. Franchisee is solely responsible for ascertaining what actions must be taken by it to comply with all such laws, orders and/or regulations, and specifically acknowledges and agrees that its indemnification responsibilities as provided in Section 24 of this Agreement pertain to its obligations hereunder.

#### **8.12 Alcoholic Beverages.**

Franchisee will stock and maintain a bar in compliance with the Operations Manual and will at all times comply with: (a) all federal, state, city, local and municipal licensing, insurance and other laws, regulations and requirements applicable to the sale of alcoholic beverages by Franchisee at the Restaurant; and (b) the liquor liability insurance requirements set forth in this Agreement or otherwise provided by Franchisor in writing. Franchisee will cause beer to be served in glasses and vessels as Franchisor may designate, will cause its Restaurant's beer taps and lines to be professionally cleaned and maintained and, if applicable, will serve alcoholic beverages using the recipes dictated by Franchisor, all in a manner consistent with the Cowboy Jack's System, as may be further described in the Operations Manual.

#### **8.13 Restaurant Hours; Personnel.**

Franchisee's Restaurant will be open during the hours specified in the Operations Manual. During business hours, Franchisee will have Management Staff responsible for supervising the Restaurant's employees and operations. Franchisee will have a sufficient number of adequately trained and competent service, kitchen and other personnel on duty to guarantee efficient service to the customers of the Restaurant. Franchisee will require its employees to meet the appearance standards and to wear the standard attire or uniforms described in the Operations Manual.

#### **8.14 Inspection Rights.**

Franchisee will permit Franchisor or its representatives to enter, remain on, and inspect the Restaurant without prior notice. Franchisee agrees that Franchisor may: (a) interview Franchisee's employees and customers; (b) take photographs and videotapes of the interior and exterior of the Franchised Location; (c) examine and remove samples of the Foods, Beverages, and Products and other products sold or used at Franchisee's Restaurant; and (d) evaluate the quality of the Foods, Beverages, and Products, and the services provided by Franchisee to its customers. Franchisor will have the right to use all interviews, photographs and videotapes of Franchisee's Restaurant for such purposes as Franchisor deems appropriate, including use in advertising, marketing and promotional materials, without any approval of or any compensation to Franchisee.



#### **8.15 Security Interest in Franchise Agreement.**

This Agreement and the Franchise granted to Franchisee hereunder may not be used by Franchisee as collateral or be the subject of a security interest, lien, levy, attachment or execution by Franchisee's creditors, any financial institution, or any other party, except with Franchisor's prior written approval.

#### **8.16 Credit Cards.**

Franchisee will honor all credit, charge, courtesy and cash cards approved by Franchisor in writing. To the extent Franchisee will store, process, transmit or otherwise access or possess cardholder data in connection with the sale of the Foods, Beverages, and Products provided under this Agreement, Franchisee will maintain the security of cardholder data and adhere to the then-current Payment Card Industry Data Security Standards ("PCI DSS"), currently found at [www.pcisecuritystandards.org](http://www.pcisecuritystandards.org), for the protection of cardholder data throughout the term of this Agreement. Franchisee further understands it is responsible for the security of cardholder data in the possession or control of any subcontractors it engages to perform under this Agreement. Such subcontractors must be identified to and approved by Franchisor in writing prior to sharing cardholder data with the subcontractor. Franchisee will, if requested to do so by Franchisor, provide appropriate documentation to Franchisor to demonstrate compliance with applicable PCI DSS requirements by Franchisee and all identified subcontractors.

#### **8.17 Credit Card; Gift Cards.**

Franchisee will honor all debit, credit, charge, cash cards and all other types of payment cards, devices or methods that Franchisor approves. To the extent Franchisee will store, process, transmit or otherwise access or possess cardholder data in connection with the sale of the Foods, Beverages, and Products provided under this Agreement and the operation of Franchisee's Restaurant, Franchisee will maintain the security of cardholder data and adhere to the PCI DSS, and any future generally accepted security standards for the protection of cardholder data throughout the Term. Franchisee will participate in a gift card program in accordance with the provisions either set forth in the Operations Manual or otherwise disclosed to Franchisee. Franchisee will not create or issue any gift cards or certificates and will only sell gift cards or certificates that have been issued by Franchisor or its Affiliate(s), and which are accepted at all Cowboy Jack's restaurants. Franchisee will not issue coupons or discounts of any type except as approved by Franchisor. In the event that the Restaurant closes or is otherwise abandoned, whether due to termination of this Agreement or for any other reason, Franchisee will pay Franchisor the full amount of the Restaurant's outstanding gift card liability at the time of closing, reduced by the then-current percentage of anticipated gift card non-redemption as established by Franchisor. Such amount will be paid together with all other Fees and amounts payable to Franchisor in connection with the Restaurant closure pursuant to this Agreement.

#### **8.18 Guest Loyalty Programs; Coupons.**

Franchisee will fully participate in all guest loyalty or frequent customer programs now or in the future that Franchisor adopts or approves. Franchisee will not issue coupons or discounts of any type for use at its Restaurant except as approved by Franchisor in writing, which may be withheld in its sole and absolute discretion.

#### **8.19 Music and Music Selection.**

Franchisee will play only the music and music selections that have been approved by Franchisor as set forth in the Operations Manual or otherwise in writing. Franchisee will install the equipment necessary to receive and play the approved music.

## **8.20 Maintenance.**

Franchisee will, at its expense, repair and maintain the Restaurant in a clean and sanitary condition consistent with Franchisor's then-current operating standards and will replace all décor items and FF&E as they become worn-out, soiled or in disrepair. All food preparation, mechanical, service, and other equipment must be kept in good working order and repair by Franchisee. All replacement FF&E and décor items used in the Restaurant must comply with the standards and specifications in the Operations Manual.

## **8.21 Remodeling of Restaurant Premises.**

Franchisee will make the reasonable capital expenditures necessary to extensively remodel, modernize, redecorate and renovate ("remodel" or "remodeling") Franchisee's Restaurant and to replace and modernize the FF&E so that Franchisee's Restaurant will reflect the then-current image of a Cowboy Jack's restaurant and conform to Franchisor's then-current specifications. Franchisee acknowledges and agrees that the requirements to remodel and modernize the Restaurant as set forth in this provision are reasonable and necessary to maintain uniformity among all Cowboy Jack's restaurants, to update the image of Cowboy Jack's restaurants and to avoid the deterioration of the appearance and operation of Franchisee's Restaurant. Franchisee will commence any remodel required by the Franchisor within 60 days of receiving written notice from Franchisor. Franchisee will complete the remodel within the timeframe dictated in such written notice, which shall be decided in Franchisor's sole discretion based on the scope of work of the remodel. Except for repairs and maintenance, Franchisee will not be required to remodel the Restaurant, or to replace and modernize its FF&E more than once every 5 years during the Term.

## **8.22 Working Capital.**

Franchisee will, at all times, maintain sufficient working capital to operate the Restaurant and to fulfill its obligations under this Agreement, and will take steps to ensure availability of capital to fulfill Franchisee's obligations to maintain, remodel and modernize the premises and operations of the Restaurant as required by the provisions of this Agreement.

## **8.23 Other Business.**

Franchisee will use the Franchised Location solely for the operation of a Cowboy Jack's restaurant and will not directly or indirectly operate or engage in any other business or activity from the Franchised Location. Franchisee will not participate in any dual branding program, or in any other program, promotion or business pursuant to which another trademark, service mark, trade name, or commercial symbol is used in connection with Franchisee's Restaurant or at the Franchised Location.

## **8.24 Conventions.**

The Owners and such other persons as Franchisor may require, will attend the conventions, meetings, seminars and other gatherings or group sessions (collectively, "**Conventions**") held by Franchisor. The topics covered, duration, date and location of all Conventions that Franchisor holds will be at its sole discretion. Franchisee will pay the registration fees, if any, that Franchisor establishes for each person attending a Convention, and will also pay the Salaries and Benefits, the Travel Expenses and all other expenses incurred by the persons attending the Convention on Franchisee's behalf.

## **8.25 Quality Assurance Programs.**

In Franchisor's sole and absolute judgment, Franchisor may hire providers of independent and secret shopping or other services to: (a) visit and evaluate food safety at the Restaurant; (b) visit and dine at

Franchisee's Restaurant; (c) interview the customers of Franchisee's Restaurant by telephone, electronically, interactive voice response, or in person; (d) summarize information from customer surveys or comment cards for Franchisee's Restaurant; and (e) communicate with customers of Franchisee's Restaurant by email or in writing, by direct contact, electronically, or interactive voice response for the purpose of evaluating: (i) the operations of Franchisee's Restaurant; (ii) the quality of the Foods, Beverages, and Products provided to customers by Franchisee's Restaurant; and (iii) whether Franchisee is in compliance with the operational and quality standards specified in the Operations Manual. Franchisor will determine the frequency, nature and extent of the services that will be provided and the form of the reports the service providers will provide to Franchisor. The fees charged by the service provider for evaluating Franchisee's Restaurant will be shared equally by Franchisor and Franchisee. Franchisor will provide Franchisee with copies of all evaluation reports prepared by the service provider for Franchisee's Restaurant and the invoices for the service evaluation. Franchisee will pay amounts invoiced by Franchisor within 30 days after receipt. In the event that Franchisee fails a food safety evaluation, and without waiving any of the rights afforded to Franchisor herein, Franchisee must pay the full cost of any required follow-up evaluation, as well as the full cost of the original failed evaluation.

#### **8.26 Payment of Obligations.**

Franchisee will timely pay any and all of its uncontested obligations or liabilities when due and owing under this Agreement, any other contract or otherwise payable to Franchisor, any of its Affiliates, the Local Advertising Association, the landlord for the Franchised Location, suppliers, vendors, distributors, banks, purveyors, lessors, creditors and any federal, state, local and municipal government.

#### **8.27 Disclosure of Franchisee Information.**

Franchisor has the right to disclose in its Franchise Disclosure Document as required by law or regulation, and to retrieve and disseminate in other documents and places, as Franchisor determines, any information relating to Franchisee and the Restaurant, including Franchisee's name, any address and/or telephone number(s), and the Gross Sales, expenses, results of operations and/or other information regarding the Restaurant utilizing the retrieval method and disseminated via the medium and in the format that Franchisor determines, in its sole discretion. Any disclosure by Franchisor of such information will be for reasonable business purposes, and its rights under this provision will survive the Assignment, termination or expiration of this Agreement.

#### **8.28 Customer Lists and Data/Agreements.**

Franchisee must (i) maintain a list of all of its current and former customers in its point-of-sale system, as well as their purchase history, at the Restaurant; and (ii) make such lists and contracts available for Franchisor's inspection upon request. This information is deemed "Confidential Information" and subject to the provisions described in Section 10, including, without limitation, those relating to the ownership and non-disclosure of Confidential Information, and Franchisee must promptly return this information to Franchisor upon expiration or termination of this Agreement for any reason. Franchisee acknowledges that Franchisor may have automatic access to any or all of this information via the Computers and Software that Franchisor requires for use in connection with the Restaurant.

## **SECTION 9**

### **FOODS, BEVERAGES AND PRODUCTS**

#### **9.1 Limitations on Foods, Beverages, and Products.**

Franchisee will only sell the Foods, Beverages, and Products that Franchisor specifies in writing or in the Operations Manual and will offer and sell all of the Foods, Beverages, and Products specified by Franchisor in writing or in the Operations Manual. Franchisee will maintain sufficient inventories to realize the full potential of the Restaurant and will conform to all customer service standards that Franchisor specifies in writing. Franchisee will set the retail price of Foods, Beverages, and Products sold at the Restaurant; provided, however, that Franchisor may exercise all rights with respect to retail price available to Franchisor under applicable law including, but not limited to, setting minimum and maximum prices for items sold at the Restaurant. Franchisee will only sell the Foods, Beverages, and Products on a retail eat-in or take-out basis and will not offer or sell the Foods, Beverages, and Products: (a) on a wholesale or retail basis at any other location; (b) by means of the Internet, catalogue or mail order sales, or telemarketing; and (c) by any other method distribution.

#### **9.2 Catering and Delivery.**

Franchisee will not, without Franchisor's prior written consent, offer or provide delivery, or enter into arrangements for third-party delivery, whether for a fee or not, of any Foods, Beverages, and Products offered for sale by Franchisee's Restaurant. If Franchisor grants Franchisee the right to offer or provide delivery, or enter into arrangements for third-party delivery, Franchisee agrees that no deliveries may be made outside a fifteen (15) mile radius of the Restaurant without Franchisor's prior written approval.

#### **9.3 Approved Suppliers.**

Franchisee will purchase the Foods, Beverages, and Products which will be used or sold by Franchisee at its Restaurant only from Approved Suppliers. Certain Foods, Beverages, and Products may only be available from one source, and Franchisor or an Affiliate may be that source. Franchisee will pay the then-current price in effect for all purchases Franchisee makes from Franchisor or an Affiliate. Except for purchases of single-source Foods, Beverages, and Products and instances where Franchisor has made volume commitments on behalf of franchisees that may be compromised, Franchisee will have the right to purchase the Foods, Beverages, and Products from other suppliers provided they conform to Franchisor's standards and specifications and Franchisor determines, in the exercise of its business judgment, that the supplier's or distributor's business reputation, quality standards, delivery performance, credit rating, and other factors are acceptable and that approval of such supplier or distributor will not have a negative effect on the economical and efficient operation of the network of Cowboy Jack's restaurants or the Cowboy Jack's System. If Franchisee desires to purchase any Foods, Beverages, and Products from other suppliers, then Franchisee must, at its expense, submit samples, specifications, and product information that Franchisor requests, for review and testing to determine whether these Foods, Beverages, and Products comply with Franchisor's standards and specifications. Franchisor will also have the right to inspect the facilities of the proposed supplier, and Franchisee will reimburse Franchisor for the costs and expenses incurred to conduct the inspection and the review of the supplier and the product(s) reviewed. Franchisor will complete all product testing within 90 days after being provided with adequate samples, specifications and product information, and will notify Franchisee of its determination within 45 days after Franchisor receives the samples and other requested information from Franchisee. Franchisor's written approval must be obtained before any previously unapproved Foods, Beverages, and Products are sold or used by Franchisee.

#### **9.4 Designated Suppliers.**

Franchisee will purchase from Designated Suppliers the Foods, Beverages, and Products that Franchisor designates in writing which are to be used or sold by the Restaurant and which Franchisor determines must meet the standards of quality and uniformity required to protect the valuable goodwill and uniformity symbolized by and associated with the Marks and the Cowboy Jack's System. In addition, Franchisee will purchase and use in its Restaurant operations all of the brand name products that Franchisor specifies in the Operations Manual.

#### **9.5 Branding of Foods, Beverages or Products.**

Franchisee will not have the right to: (a) use or display the Marks on or in connection with any foods, beverages or products that Franchisor has not approved; (b) acquire, develop or manufacture any food, beverage or product using the name "Cowboy Jack's" or any of the Marks, or direct any other person or Entity to do so; (c) acquire, develop or manufacture any Foods, Beverages or Products that have been developed or manufactured by or for Franchisor for use in conjunction with the operations of the Restaurant and which are sold under any of the Marks, or direct any other person or Entity to do so; or (d) use, have access to, or have any rights to any proprietary formulas, ingredients, or recipes for any Foods, Beverages or Products created by or at Franchisor's direction and sold under any of the Marks.

#### **9.6 Purchasing Cooperative.**

Franchisor may require that Franchisee join and make required purchases/leases through a purchasing cooperative or other Entity that Franchisor designates. Such Entity may adopt its own by-laws, rules, regulations and procedures, subject to Franchisor's prior approval. Franchisee's failure to timely pay amounts due to, or comply with the by-laws, rules, regulations and procedures of such cooperative is a breach of this Agreement. Franchisor will have the right to offset against amounts that Franchisor owes to Franchisee the amount of Franchisee's unpaid cooperative obligations.

#### **9.7 Payments to Suppliers.**

Franchisee will timely pay when due and owing any and all of its uncontested obligations or liabilities for purchases made by Franchisee from Designated Suppliers, Approved Suppliers, Franchisor, any of its Affiliates, and/or other suppliers, vendors and distributors ("**Suppliers**") for the Foods, Beverages, and Products, or other items, goods, products, merchandise or services for the Restaurant. Franchisee agrees and acknowledges that Franchisor has the right to require that Franchisee's Suppliers provide information to Franchisor regarding the purchases and payments made by Franchisee to Suppliers and/or the status of Franchisee's accounts with its Suppliers, and Franchisee hereby authorizes Franchisor to direct Franchisee's Suppliers to promptly provide Franchisor with the information and documents, including order forms and invoices, that Franchisor requests. Franchisee's Suppliers will accept this Agreement as evidence of Franchisor's right to require that it be provided with information and documents regarding Franchisee's accounts with its Suppliers, and this Agreement will constitute the authority from Franchisee for Franchisee's Suppliers to provide such information and documents to Franchisor.

#### **9.8 Payments by Suppliers.**

Franchisee acknowledges that Franchisor and/or its Affiliate(s) will have the right to receive commissions, volume discounts, purchase discounts, performance payments, bonuses, rebates, marketing and advertising allowances, co-op advertising, administrative fees, enhancements, price discounts, economic benefits and other payments ("**Payments**") based upon the actual purchases of the Foods, Beverages, and Products by

Franchisor, its Affiliate(s), and franchisees from Suppliers. Any Payments made to Franchisor will become its property for use as Franchisor determines.

## **SECTION 10**

### **CONFIDENTIAL OPERATIONS MANUAL; CONFIDENTIAL INFORMATION**

#### **10.1 Compliance with Operations Manual.**

Franchisor will provide Franchisee with access to the Operations Manual, which may be provided electronically or online. The purpose of the Operations Manual is to protect the Marks and the Cowboy Jack's System, and not for the purpose of exercising control over those duties and responsibilities reserved to Franchisee. Franchisee will conform to the common image and identity created by the Foods, Beverages, and Products, music, recipes, ingredients, cooking techniques and processes, cleanliness, sanitation, and services associated with Cowboy Jack's restaurants which are portrayed and described by the Operations Manual. Franchisee will modify the operations of the Restaurant to implement all mandatory changes, additions and supplements that Franchisor makes to the Cowboy Jack's System which are reflected by the Operations Manual as promptly as reasonably possible. Franchisee will not use the Operations Manual or any information contained therein for any purpose other than the operation of Franchisee's Restaurant. Franchisee acknowledges receiving access to one copy of the Operations Manual from Franchisor.

#### **10.2 Revisions to Operations Manual.**

The Operations Manual will at all times remain Franchisor's sole and exclusive property. Franchisor may, from time to time, revise and update the Operations Manual to address changes or improvements to the Cowboy Jack's System, and Franchisee expressly agrees to operate its Restaurant in accordance with all such revisions to mandatory provisions of the Operations Manual. Franchisee is responsible for having access to the most current version of the Operations Manual, and in the event of any dispute regarding the Operations Manual, the terms of the master copy of the Operations Manual that Franchisor maintains will be controlling in all respects. Franchisor will have the option of providing the revisions and updates to the Operations Manual to Franchisee via any reasonable method, including electronically.

#### **10.3 Trade Secrets.**

Franchisee understands and agrees that he/she will come into possession of certain of Franchisor's trade secrets concerning the manner in which Franchisor conducts business including, but not necessarily limited to: recipes and formulas; methods of doing business or business processes; strategic business plans; customer lists and information; marketing and promotional campaigns; software; and its materials clearly marked or labeled as trade secrets. Franchisee agrees that the foregoing information, which may or may not be considered "trade secrets" under prevailing judicial interpretations or statutes, is private, valuable, and constitutes trade secrets belonging to Franchisor. Franchisee agrees that Franchisor derives independent economic value from the foregoing information not being generally known to, and not being readily ascertainable through proper means by, another person. As described in Section 31.9, Franchisor's trade secrets are part of the "Confidential Information."

#### **10.4 Confidential Information.**

Franchisor and Franchisee expressly understand and agree that Franchisor will be disclosing and providing Franchisee and its employees and agents with Confidential Information. Franchisee and its employees and agents will not, during the term of this Agreement or thereafter, reveal, communicate, sell, use, employ, copy, reverse engineer, lecture upon, rewrite, reproduce, disseminate, publish, disclose, or divulge any Confidential Information, or any abstracts thereof, to any person or Entity except as expressly authorized by this Agreement

or by Franchisor in writing. Franchisee will only disclose or provide Franchisor's Confidential Information to its employees who must have access to it to properly execute their job functions and to operate Franchisee's Restaurant. Notwithstanding any other provision of this Agreement to the contrary, there may be certain instances where applicable law allows for the disclosure of certain Confidential Information, including trade secrets, under limited circumstances as specified in the Operations Manual or otherwise in writing by Franchisor. All Confidential Information is and will remain Franchisor's sole and absolute property and Franchisee will have no rights or interests in any Confidential Information, except the right to use the Confidential Information in the operations of the Restaurant as provided in this Agreement. Any additions, changes, modifications and/or improvements made to any of Franchisor's Confidential Information by Franchisee or its employees and agents will be Franchisor's sole and exclusive property.

#### **10.5 Confidentiality of Operations Manual.**

Franchisee will treat the Operations Manual and any other manuals created for or approved for use in the operation of Franchisee's Restaurant as Confidential Information. Franchisee will use all reasonable means to keep the contents of the Operations Manual secret and will only grant access to the Operations Manual to those employees who must use the Operations Manual in the performance of their employment duties in Franchisee's Restaurant.

#### **10.6 Confidentiality Agreements; Noncompetition Agreements for Management Staff.**

Franchisee's Owners, the Management Staff and all of Franchisee's employees who have access to the Operations Manual or any Confidential Information must sign agreements in the form prepared by Franchisee's legal counsel and to Franchisor's satisfaction agreeing to maintain the confidentiality, during the course of their employment and thereafter, of all of Franchisor's Confidential Information. In addition, each member of Franchisee's General Manager must sign a noncompetition agreement at the time of employment prepared by legal counsel retained by Franchisee in a form that is satisfactory to Franchisor. Franchisee will be responsible for the enforcement of the confidentiality and noncompetition agreements, and the legal fees, costs and expenses associated with such enforcement.

### **SECTION 11** **SITE SELECTION; CONSTRUCTION; SIGNS**

#### **11.1 Site Selection; Purchase or Lease of Site.**

Franchisee is solely responsible for selecting the site of the Franchised Location for Franchisee's Restaurant. Franchisor recommends that Franchisee retain an experienced commercial real estate broker or salesperson and an experienced attorney to provide advice and counsel on Franchisee's business and the terms, conditions, and economics of the legal and other documents required to lease or purchase the site. Franchisee must provide Franchisor with a copy of the proposed Lease for the site selected by Franchisee at least 15 days before the date the Lease is to be signed, and must receive Franchisor's prior written approval of the proposed lease (which will not be unreasonably withheld) before Franchisee signs the Lease. Franchisor's review of the Lease will be only to determine whether the terms of the Lease comply with the terms and conditions of this Agreement, and not to provide any business, economic, legal or real estate advice or analysis. Franchisee will be solely responsible for all terms of the Lease, including the enforceability, economics and legality of all provisions in the Lease. The enforceability of the Lease must be conditioned upon Franchisor's approval of Franchisee and the enforceability of this Agreement. Franchisee will not sign the Lease until this Agreement has been signed by both Franchisor and the Franchisee and the Lease contains the terms required under this Section. The Lease will include the Lease Addendum attached hereto as Exhibit C, containing provisions confirming Franchisor's right, but not the obligation, to enter the premises of the Franchised Location to conduct inspections during regular business

hours; Franchisor's right, but not the obligation, to assume, or cause another franchisee to assume, the Lease in the event Franchisee's right to operate a Cowboy Jack's restaurant is terminated; a restriction on the location owner's ability to operate a western themed restaurant for a certain period after a termination of this Agreement, and other provisions that Franchisor specifies for the purpose of promoting conformity and continuity of the Franchised Location as a part of the Cowboy Jack's System. Franchisee agrees and acknowledges that Franchisor has the right to request that Franchisee's landlord promptly deliver to Franchisor, or such other party as Franchisor may designate: (a) written confirmation: (i) that the Lease is in full force and effect without modification or amendment, and (ii) that Franchisee is not in default under the terms of the Lease, and/or (b) such other information, documents, confirmations and/or certifications regarding the Lease as Franchisor may reasonably request.

## **11.2 Site Release.**

Selection of the site of Franchisee's Restaurant is solely Franchisee's responsibility. Franchisor has no duty or obligation to assist Franchisee in the selection of a site for the Franchised Location, or in the purchase or lease of the Franchised Location, and has no obligation or duty to Franchisee regarding the site selected by Franchisee. To the extent that Franchisor provides information, assistance or advice in such matters, it is agreed that Franchisor has no liability of any kind whatsoever with respect to such information, assistance or advice. *Franchisee releases Franchisor and its current and former officers, directors, Owners, agents and employees, in their corporate and individual capacities, from any and all Claims by Franchisee arising from, in connection with, or as a result of Franchisee's purchase or lease of the site selected by Franchisee for the Franchised Location, whether such Claims arise before or after the execution of this Agreement.*

## **11.3 Site Acceptance.**

(a) Upon selection by Franchisee of a proposed site for the Franchised Premises, Franchisee shall promptly submit to Franchisor such specific site data and demographic and other information concerning the site as may be required by Franchisor, utilizing such forms as may be required by Franchisor. Franchisor shall either accept or reject such site in accordance with Franchisor's then-current site selection policies and procedures. To be effective, any acceptance must be in writing and signed by Franchisor. Franchisee understands and acknowledges that Franchisor may reject any proposed site, in which event Franchisee will not proceed at the rejected site, but will seek to locate an acceptable site. The acquisition in any manner of any proposed site prior to acceptance by Franchisor shall be the sole risk and responsibility of Franchisee and shall not obligate Franchisor in any way to accept such site or to issue a Franchise Agreement for operation of a Cowboy Jack's Restaurant at such site.

(b) In executing this Agreement, accepting a proposed site, giving approvals or advice or providing services or assistance in connection with this Agreement, Franchisor does not guarantee the suitability of an accepted site or success of any particular Franchised Location established at any such site. Franchisor expressly disclaims any warranties, express or implied, with respect to the suitability of any site or the success of any Franchised Location. Franchisee understands and acknowledges that the suitability of a site and the success of any Cowboy Jack's Restaurant depend on many factors outside the control of either Franchisor or Franchisee (including, without limitation, such factors as interest rates, unemployment rates, demographic trends and general economic conditions), but principally depend on Franchisee's efforts in the operation of the Franchised Business.



#### **11.4 Standard Plans and Specifications.**

Franchisor will provide Franchisee with a set of the plans and specifications for an existing Cowboy Jack's restaurant. Franchisee acknowledges that unique aspects of each real estate site may require significant modifications to the standard plans. Consequently, Franchisee will, at its cost, retain a licensed architect and will be responsible for the preparation of working drawings and construction and architectural plans and specifications for Franchisee's Restaurant. Franchisee will be responsible for the accuracy of all drawings, plans and specifications for its Restaurant. Franchisor reserves the right to require Franchisee to use a Designated Supplier or Approved Supplier in connection with the design, engineering, or construction management of the development of Franchisee's Restaurant.

#### **11.5 Compliance with Specifications and Standards.**

The Franchised Location and Franchisee's Restaurant will conform to all standards, specifications and other requirements (the "**Design Standards**") that Franchisor establishes for the design, decoration, layout, FF&E and other items of the Restaurant. Any changes or modifications to the Design Standards must be submitted to Franchisor for its prior approval. Compliance with the Design Standards does not release Franchisee from its obligation to ensure that the Restaurant is designed and constructed in compliance with all federal, state, and local laws including, without limitation, the Americans with Disabilities Act. Franchisee will purchase and install the FF&E specified in the Operations Manual or otherwise in writing by Franchisor for Franchisee's Restaurant in compliance with the Design Standards.

#### **11.6 Construction Costs.**

Franchisee will retain a licensed contractor for the construction or renovation of Franchisee's Restaurant. Franchisee will be solely responsible for all costs and expenses incurred for the construction or renovation of Franchisee's Restaurant at the Franchised Location including, but not limited to, all costs for architectural plans and specifications, all modifications to the plans and specifications necessitated by the structure, construction or layout of the Franchised Location, building permits, site preparation, demolition, construction of the parking lot, landscaping, heating, ventilation and air conditioning, interior décor and decorations, FF&E, leasehold improvements, labor, architectural and engineering fees, electricians, plumbers, general contractors and subcontractors.

#### **11.7 Inspection.**

Franchisee will be solely responsible for inspections during construction or renovation to confirm that the Franchised Location is being constructed or renovated in a workmanlike manner and according to the specifications established by Franchisor. Franchisee will be solely responsible for complying with all federal, state and local laws, ordinances, statutes and building codes, and for acquiring all licenses and building and other permits required by law in connection with the construction or renovation of Franchisee's Restaurant at the Franchised Location. Franchisor will have no responsibility to Franchisee or any other party if the Restaurant is not constructed or renovated by Franchisee or its architect or contractor: (a) according to the specifications established by Franchisor; (b) in compliance with all applicable federal, state or local laws or ordinances; or (c) in a workmanlike manner. Franchisee will not open the Restaurant for business without Franchisor's prior written approval.

#### **11.8 Approved Signs.**

Franchisor will provide Franchisee with standard sign plans and specifications for exterior and interior signage (the "**Signs**") to be used at Cowboy Jack's Restaurants and a list of Approved Suppliers for such Signs. The Franchised Location must comply with the standard sign plans and specifications established by

Franchisor and provided to Franchisee and must be purchased from an Approved Supplier. Franchisee will, at its expense, prepare or cause the preparation of complete and detailed plans and specifications for the Signs and will submit them to Franchisor for written approval. Franchisor will have the absolute right to inspect, examine, videotape and photograph the Signs during the term of this Agreement. If the Signs do not meet Franchisor's standard sign plans and specifications, including, but not limited to, if the Signs are in need of repair, as deemed necessary by Franchisor in its sole discretion, then Franchisee will be responsible for the costs associated with such repair or replacement (if necessary), and Franchisee must complete the repair or replacement in the timeframe required by Franchisor. Franchisee will be responsible for any and all installation costs, sign costs, architectural fees, engineering costs, construction costs, permits, licenses, repairs, maintenance, utilities, insurance, taxes, assessments and levies in connection with the construction, erection, maintenance or use of the Signs including, if applicable, all electrical work, construction of the base and foundation, relocation of power lines and all required soil preparation work. Franchisee will comply with all federal, state and local laws, regulations, building codes and ordinances relating to the construction, erection, maintenance and use of the Signs. Franchisee may not alter, remove, change, modify, or redesign the Signs unless approved by Franchisor in writing. Franchisor will have the right to redesign the specifications for the Signs without the approval or consent of Franchisee. Within 90 days after receipt of written notice from Franchisor, Franchisee will, at its expense, either modify or replace the Signs so that the Signs displayed at the Franchised Location will comply with the new specifications. With the exception of the scenarios set forth in this Section 11.8, Franchisee will not be required to modify or replace the Signs more than once every 5 years from the date of this Agreement.

#### **11.9 Ownership of Franchised Location.**

If Franchisee, any of the Owners, or an Entity owned by Franchisee and/or any of the Owners, owns, leases or otherwise controls the Franchised Location, including the land, building and related real estate, or if Franchisee, any of Franchisee's Owners, or an Entity owned by Franchisee and/or any of the Owners owns 50.1% or more of an Entity that owns, leases or otherwise controls the Franchised Location, then Franchisee will, as the lessee, enter into a Lease for the Franchised Location for a term coextensive with the term of this Agreement containing terms and conditions that are commercially reasonable and substantially similar to a commercial lease that would be executed by unrelated parties in an arm's length transaction for similarly situated real estate. The Lease will be deemed to be a Major Asset of Franchisee. This provision will not apply if Franchisee owns the Franchised Location, and the Franchised Location is reflected as an asset on Franchisee's Financial Statements, in which event, the Franchised Location will be deemed a Major Asset of Franchisee.

#### **11.10 Relocation.**

Provided Franchisee is not in default of this Agreement, Franchisee may, at its sole expense and with Franchisor's prior written approval, be authorized by Franchisor to relocate the Franchised Location if: (a) the proposed new location is located in Franchisee's original Designated Market Area, as defined in the Addendum to this Agreement when this Agreement was signed by the parties; (b) the proposed new location meets Franchisor's site selection criteria and other requirements as set forth in this Agreement; and (c) Franchisee's new Designated Market Area, as defined in the Addendum to this Agreement based upon the proposed new location, does not infringe upon (i) the market area of any existing or proposed Cowboy Jack's Restaurant or any other restaurant owned or operated by Franchisor or its Affiliate(s); or (ii) any designated market area granted to any other developer, area developer, franchisee, master franchisee or subfranchisee of Cowboy Jack's Restaurants. The new location of the Restaurant, including the real estate and the building, must comply with Franchisor's then-current image, décor, standards and specifications. Franchisee will pay Franchisor a Relocation Fee of \$5,000 on the date Franchisor approves Franchisee's right to relocate to the new location.

**SECTION 12**  
**EQUIPMENT; COMPUTER HARDWARE AND SOFTWARE**

**12.1 Communications Equipment; Telephone Lines.**

Franchisee will, at its sole expense, obtain and maintain the dedicated telephone lines, high speed Internet connections, and other communication and transmission equipment and systems for Franchisee's Restaurant as are specified in the Operations Manual or otherwise in writing. Franchisee will install and maintain telephone answering systems and other telephonic devices at the Restaurant, and will operate all communication and transmission systems and devices as specified by Franchisor in the Operations Manual or otherwise in writing.

**12.2 Computer Hardware and Software; Point-of-Sale System.**

Franchisee will, at its sole expense, lease, license or purchase the computer hardware; computer software; peripheral devices; physical, electronic, and other security systems; television devices and associated cable, antenna, and/or streaming subscriptions; and point-of-sale, cash register and operating systems (the "**Computers and Software**") that meet the standards, specifications and requirements established by Franchisor as set forth in the Operations Manual or otherwise in writing. Franchisee will, upon written notice from Franchisor, modify, upgrade, and update the Computers and Software, at its sole expense, to the standards, specifications and requirements specified in the Operations Manual or otherwise provided in writing by Franchisor. Franchisee's Computers and Software will be configured to provide Franchisor with direct electronic access to Franchisee's Computers and Software, and databases to upload the data, financial information and other information Franchisee is required to provide to Franchisor pursuant to this Agreement or the Operations Manual, including Gross Sales, and by category, direct labor costs and food costs. Franchisee will, upon written notice from Franchisor, modify, enhance, update and upgrade the Computers and Software, at its sole expense, to the standards, specifications and requirements specified in the Operations Manual or otherwise in writing by Franchisor. Franchisee will be responsible for protecting itself from disruptions, Internet access failures, Internet content failures, and attacks by hackers and other unauthorized intruders, and Franchisee waives any and all Claims against Franchisor as the direct or indirect result of such disruptions, failures and attacks.

**12.3 Internet Provider; Email Address.**

Franchisee will, at Franchisee's expense, have access to the Internet/World Wide Web (the "**Internet**"). Franchisor will provide Franchisee and its Management Staff with email addresses, which will be the exclusive email address through which Franchisee and Franchisor will communicate. Franchisee will not, and will not permit its Management Staff and other employees to, create or use any email addresses or handles for the purpose of conducting the Restaurant's business.

**12.4 Cowboy Jack's Website.**

Franchisor will establish and maintain a website (the "**Cowboy Jack's Website**") to advertise and promote the Cowboy Jack's restaurants, including Franchisee's Restaurant. All features of the Cowboy Jack's Website, including the domain name, content, features, format, procedures and links to other websites, will be determined by Franchisor, in its sole discretion. Franchisor will have the right to modify, enhance, suspend or temporarily or permanently discontinue the Cowboy Jack's Website at any time, in its sole discretion. Franchisee will not have the right to establish an email address, website, or other presence on the Internet to advertise or promote its Restaurant or to otherwise use the Marks. As of the date of this Agreement, Franchisor provides Franchisee with access to the local restaurant template page (the "**Subpage**") on its public website. Franchisee will be required to maintain its own content and information

on the Subpage consistent with the standards and specifications that Franchisor may set forth in the Operations Manual or otherwise. Franchisor and its Affiliate(s) will have the sole right to promote on the Internet the Foods, Beverages, and Products offered by Franchisee's Restaurant, to create a website containing the "Cowboy Jack's" name and the Marks, and to use "cowboyjacks" or any derivative or related domain name. There is no initial cost to Franchisee for the Cowboy Jack's Website. However, Franchisor reserves the right, after giving Franchisee at least 30 days' prior written notice, to charge Franchisee a fee for the costs associated with the maintenance or enhancement of the Cowboy Jack's Website. Franchisee's Restaurant will be removed from the Cowboy Jack's Website immediately upon the termination or expiration of this Agreement.

## **12.5 Social Networking.**

Franchisee and its Executive Management, Management Staff, employees and agents will not have the right to use any of the Marks or other intellectual property of Franchisor on any social network, social media or online community on the Internet or any other online, digital or electronic medium including, but not limited to, any "blog," YouTube, Facebook, Instagram, Tik Tok, Wikipedia, professional networks like Linked-In, live-blogging and micro-blogging tools like X, virtual worlds, file, audio and video sharing sites, and other similar social networking media or tools now or hereafter in existence ("**Online and Social Media**"), except with Franchisor's prior written permission. Franchisee and its Executive Management, Management Staff, employees and agents will comply with all of Franchisor's policies, standards and procedures for use of any Online and Social Media that in any way references the Marks or involves the Restaurant. Franchisor may require Franchisee to set up accounts, pages or similarly participate in Online and Social Media, and may require that Franchisor be given administrative privileges for such accounts and pages. Franchisor may require that Franchisee post appropriate content to such accounts and pages and Franchisee will be permitted to do so independently.

## **12.6 Artificial Intelligence.**

Unless permitted in the Operations Manual or with Franchisor's prior written consent, Franchisee will not utilize any generative artificial intelligence software, tools, or technologies, including, natural language processing, deep learning algorithms, or machine learning models ("**Generative AI**") directly or indirectly in the operation of the Restaurant, including without limitation, in advertising, promotion, or marketing of the Restaurant or the franchised business, communications with customers, business planning, analysis or optimization, or in any social media. Franchisee acknowledges and agrees not to upload or share any Confidential Information (including any inputs of information containing trade secrets, sensitive confidential information or personal information) with any unapproved third-party platforms, including Generative AI, except as authorized in writing by Franchisor. In addition, Franchisee shall prohibit its employees from using any Confidential Information in Generative AI. In the event Franchisee utilizes any Generative AI, with or without Franchisor's prior approval, Franchisee shall comply with all laws applicable to such use, including without limitation, all trademark, copyright, and biometric laws, and shall not infringe upon the intellectual property of a third party, or use such intellectual property without appropriate authorization and attribution.

# **SECTION 13 TRAINING; OPENING ASSISTANCE**

## **13.1 Initial Training.**

To educate, familiarize and acquaint Franchisee and its Management Staff with the Cowboy Jack's System and the operations of a Cowboy Jack's restaurant, Franchisor will provide an initial training program for Franchisee and the Management Staff as designated by Franchisor, at a Cowboy Jack's restaurant in or near

Minneapolis, Minnesota or at another location designated by Franchisor in writing (the “**Training Program**”). The Training Program will include instruction on basic business procedures, equipment operation and maintenance, operating procedures, menu training, point-of-sale operations, Restaurant best practices, customer service, brand history and expectations, along with location specific information and other topics selected by Franchisor. The Training Program will be scheduled by Franchisor in its sole discretion and will be for approximately 5 days (which need not be consecutive). The Management Staff must begin the Training Program at least 60 days prior to the Required Opening Date. The Management Staff must attend and successfully complete the Training Program and be certified in writing by Franchisor at least 30 days prior to the actual opening of Franchisee’s Restaurant. Any member of the Management Staff who does not successfully complete the required Training Program will not be permitted to participate in the operations of Franchisee’s Restaurant. Franchisee will be required to pay Franchisor any training, consulting, or other fees for the Training Program provided to the Management Staff pursuant to this Section 13.1.

### **13.2 Changes in Personnel After Initial Opening.**

All Management Staff hired after the initial opening of the Restaurant must attend the training program prescribed by Franchisor in the Operations Manual within 14 days after being hired or promoted by Franchisee. If any Management Staff fails to successfully complete the required training program within 60 days after the date of hiring, then Franchisee will not permit that employee to continue to participate in the operation of Franchisee’s Restaurant.

### **13.3 Required Training of New Personnel.**

The initial training program for new Management Staff hired after the opening of the Restaurant will be conducted in or near Minneapolis, Minnesota, or at another location designated by Franchisor. Franchisee will be required to pay the Per Diem Training Fee charged by Franchisor for each new General Manager or other designated management staff members trained by Franchisor after the opening of the Restaurant. If Franchisor, at its option, provide the initial training program, or any portion of the initial training program, for any Management Staff member at the Franchised Location (rather than at Franchisor’s designated training location), then Franchisee will, within 10 days after receipt of an invoice indicating the amount owed, pay Franchisor: (a) the Per Diem Training Fee for each trainer; and (b) all Travel Expenses incurred by each trainer.

### **13.4 Additional Training.**

Franchisee, Franchisee’s Management Staff and other employees of Franchisee may be required by Franchisor to attend, at Franchisee’s expense, additional training on the dates scheduled by Franchisor at the Franchised Location, or another location that Franchisor designates, on topics to be determined by Franchisor if Franchisee’s Restaurant fails to meet certain performance standards established by Franchisor or as Franchisor otherwise determines, in its sole discretion, that additional training is necessary or required. Franchisee may also request that one or more members of Franchisee’s Management Staff undergo additional training on the dates scheduled by Franchisor, at Franchisee’s cost. Whether the additional training is required by Franchisor or requested by Franchisee, Franchisee will pay the Per Diem Training Fee for each member of the Management Staff trained, and will reimburse Franchisor for the Travel Expenses of its trainers.

### **13.5 Payment of Salaries and Expenses.**

Franchisee will pay all Travel Expenses and the Salaries and Benefits for all employees of Franchisee who attend any of Franchisor’s training programs on behalf of Franchisee.

### **13.6 Opening Assistance.**

Franchisor will provide an opening assistance team consisting of at least four trainers and one senior member of its franchise development team (the “**Opening Team**”) to assist Franchisee with (a) implementing the Cowboy Jack’s System at Franchisee’s Restaurant, and (b) training Franchisee’s staff and kitchen employees. Members of the Opening Team will be present at Franchisee’s Restaurant for at least 9 days. If any member of the Opening Team is required to remain at the Restaurant for more than 9 days, as determined in Franchisor’s sole discretion, Franchisee will pay Franchisor the Per Diem Training Fee and the additional Travel Expenses for each additional day of on-site opening assistance provided by each member of the Opening Team within 10 days after receipt of an invoice from Franchisor indicating the amount owed. If this Agreement is signed pursuant to an Area Development Agreement between Franchisor and Franchisee (or a Controlled Entity, as defined in the Area Development Agreement) which specifies different requirements for the Opening Team and the opening assistance provided by Franchisor, then the terms of the Area Development Agreement will control.

### **13.7 Release and Indemnification.**

Franchisee and its Owners hereby waive any right to sue for Damages or other relief, and release all known and unknown Claims they may allegedly have against Franchisor and/or any of its Affiliates and their current and former employees, agents, officers and directors, arising out of the adequacy or accuracy of the information provided at or any activities occurring during any training program, additional training and/or opening assistance (collectively referred to as “**Training**” in this provision), or any harm or injury any attendee or participant suffers during and as a result of his/her attendance at or participation in the Training. Franchisee and the Owners agree to hold Franchisor, its Affiliates and their current and former employees, agents, officers and directors harmless for any Claims and/or Damages incurred by Franchisee, the Owners or any Affiliates, employees, agents, officers and directors arising out of, in any way connected with or as a result of attendance at or participation in the Training. Franchisee, the Owners and all persons who attend and participate in the Training on behalf of Franchisee will sign the documentation required by Franchisor or an Affiliate as a condition to their attendance at, participation in and successful completion of the Training.

## **SECTION 14** **INSURANCE**

### **14.1 General Liability Insurance.**

Franchisee will purchase and maintain, at its sole cost, a commercial comprehensive general liability insurance policy with coverage amounts as specified in Franchisor’s Operations Manual. As of the date of this Agreement, required coverage must be at least \$1,000,000 per occurrence and \$3,000,000 aggregate coverage, insuring Franchisee and its officers, directors, agents, and employees from loss, liability, claim, damage or expense, including bodily injury, personal injury, food poisoning or other sickness, death, property damage, products liability, and other legal liability, resulting from the condition, operation, use, business, or occupancy of Franchisee’s Restaurant and the Franchised Location, including the surrounding premises, the parking area, and the sidewalks.

### **14.2 Liquor Liability Insurance.**

Franchisee will procure and maintain in full force and effect, at its sole cost and expense, liquor liability insurance with coverage of at least \$1,000,000 per occurrence and \$2,000,000 aggregate coverage, insuring Franchisee, Franchisor and its respective Executive Management, agents and employees from any and all Claims and Damages of any kind whatsoever, including bodily injury, personal injury, death, property

damage and all other occurrences, resulting from the sale or service of liquor by Franchisee or any of Franchisee's employees in connection with Franchisee's Restaurant.

#### **14.3 Automobile Liability Insurance.**

Franchisee will procure and maintain in full force and effect, at its sole cost and expense, automobile liability insurance with coverage of at least \$500,000 per occurrence insuring Franchisee, Franchisor and its respective Executive Management, agents and employees from any and all Claims and Damages of any kind whatsoever resulting from the use, operation or maintenance of all automobiles or vehicles owned by Franchisee or used by Franchisee or any of Franchisee's employees (including automobiles owned or leased by any employee of Franchisee) in connection with Franchisee's Restaurant, including the catering and delivery services provided by Franchisee's Restaurant.

#### **14.4 Property Insurance.**

Franchisee will procure and maintain in full force and effect, at its sole cost and expense, "all risks" property insurance coverage, which will include fire and extended coverage and, if applicable based upon the location of the Franchised Location, wind, hurricane, flood and/or earthquake coverage, for the FF&E and other property owned or leased by Franchisee and used by Franchisee at the Franchised Location. Franchisee's property insurance policy (including fire and extended coverage) must have coverage limits equal to at least actual "replacement" cost of the FF&E and the other property of Franchisee used in the business operations of the Restaurant.

#### **14.5 Business Interruption Insurance.**

Franchisee will procure and maintain, at its sole cost and expense, business interruption insurance insuring Franchisee for the "Actual Loss Sustained" for a minimum of 12 months from the date of any interruption in the operation of Franchisee's Restaurant until at least 60 days after the Restaurant reopens for business. If "Actual Loss Sustained" coverage is not available to Franchisee, then Franchisee will procure and maintain, at its expense, business interruption insurance in an amount equal to at least 90% of Franchisee's Gross Sales for a minimum of 12 months, less non-continuing expenses.

#### **14.6 Building Insurance.**

If Franchisee, or any of Franchisee's Owners, owns, either directly or indirectly, the building or the business premises at the Franchised Location, then Franchisee will insure the building or the business premises for and against all risk, loss and damages in an amount equal to at least actual "replacement" cost. If the Franchised Location is either partially or completely destroyed by fire or any other catastrophe, then Franchisee will use the insurance proceeds to repair or reconstruct the Franchised Location and recommence business as soon as reasonably possible.

#### **14.7 Employment Practices Liability Insurance.**

Franchisee will procure and maintain, at its sole cost and expense, employment practices liability insurance coverage of at least \$1,000,000 per occurrence insuring Franchisee and Franchisee's employees for employment-related Claims and Damages.

#### **14.8 Vendor Insurance.**

- (a) General Liability Insurance. Franchisee will require each supplier and independent contractor ("**supplier**") to procure and maintain in full force and effect, at their sole cost and

expense, a general liability insurance policy with coverage of at least \$1,000,000 per occurrence insuring the supplier and Franchisee, Franchisor and its respective Executive Management, agents and employees from and against any and all loss, liability, claim or expense of any kind whatsoever, including bodily injury, personal injury, food poisoning or other sickness, death, property damage, products liability and all other occurrences arising from or as a result of any negligence or other wrongdoing by the supplier or its employees in providing services or products to Franchisee, Franchisee's Restaurant or to any customer or invitee of the Restaurant.

(b) Automobile Insurance. Franchisee will require each supplier that performs any services for Franchisee to procure and maintain in full force and effect, at its sole cost and expense, automobile liability insurance with coverage of at least \$1,000,000 per occurrence insuring Franchisee, Franchisor and its respective Executive Management, agents and employees from any and all Claims and Damages of any kind whatsoever resulting from the use, operation or maintenance of all automobiles or vehicles owned or leased by the supplier, or owned or leased by any of its employees and used by the supplier, in connection with any services provided to Franchisee, including all catering and/or delivery services provided for or on behalf of Franchisee's Restaurant.

#### **14.9 Data Security/Cyber Breach Insurance.**

Franchisee will purchase and maintain in full force and effect, at its sole cost, a data security/cyber breach liability insurance policy with coverage for cyber liability claims.

#### **14.10 Workers' Compensation, Unemployment, and Employer's Liability.**

Franchisee will procure and maintain, at its sole cost and expense, workers' compensation coverage and unemployment insurance as required by statute or rule of the state in which the Franchised Location is located, and employer's liability insurance in the amount of at least \$500,000/\$500,000/\$500,000, as well as such other insurance as may be required by applicable statutes and regulations.

#### **14.11 Umbrella Liability.**

Franchisee will, at its sole cost and expense, purchase and maintain umbrella liability insurance in the amount of \$2,000,000 that will provide liability insurance coverage for any Claims or Damages incurred by Franchisee in excess of the primary general liability, liquor liability, automobile liability, employment practices liability, and other liability insurance coverage carried by Franchisee.

#### **14.12 Insurance Required by Law or After Midnight.**

Franchisee will, at its sole cost and expense, procure and maintain all other insurance required by state or federal law, including workers' compensation insurance for its employees, and all insurance coverages required Franchisor in this Agreement, the Operations Manual or otherwise in writing.

#### **14.13 Franchisee's Insurance Obligations.**

Franchisee's obligation to obtain and maintain insurance policies in the amounts specified shall not be limited in any way by reason of any insurance that Franchisor may maintain, nor does Franchisee's procurement of required insurance relieve Franchisee of liability under the indemnity obligations described in Section 24 or elsewhere in this Agreement. Franchisee's insurance procurement obligations under this Section are separate and independent of Franchisee's indemnity obligations. Franchisor does not represent or warrant that any insurance that Franchisee is required to purchase will provide adequate coverage for



Franchisee or the Restaurant. Franchisee should consult with its own insurance agents, brokers, attorneys and other insurance advisors to determine the level of insurance protection it needs and desires, in addition to the coverage and limits that Franchisor requires.

#### **14.14 Insurance Companies; Evidence of Coverage.**

All insurance companies providing coverage to Franchisee must be licensed in the state where coverage is provided. Franchisee will provide Franchisor with certificates of insurance or such other evidence of insurance coverage as Franchisor may require pursuant to this Section no later than the date Franchisee opens for business, and Franchisee will immediately provide, upon expiration, change or cancellation, a new certificate of insurance (or other updated evidence of coverage, as designated by Franchisor) to Franchisor.

#### **14.15 Defense of Claims.**

All liability insurance policies procured and maintained by Franchisee in connection with Franchisee's Restaurant, including Franchisee's employment practices liability policy, will require the insurance company to provide and pay for attorneys to defend any Claims brought against Franchisee, Franchisor, and its respective Executive Management, agents and employees.

#### **14.16 Rights of After Midnight.**

All insurance policies procured and maintained by Franchisee pursuant to this Section will name Franchisor as an additional insured, will contain endorsements by the insurance companies waiving all rights of subrogation against Franchisor, will, as applicable, include primary and non-contributory endorsement or language in the form and content as Franchisor periodically require, and will stipulate that Franchisor will receive copies of all notices of cancellation, non-renewal or elimination at least 30 days prior to the effective date of such cancellation, non-renewal or coverage elimination. Franchisee will provide prior written notification to Franchisor of any reduction in the insurance coverages maintained by Franchisee pursuant to this Section.

### **SECTION 15** **LICENSING OF MARKS AND COWBOY JACK'S SYSTEM**

#### **15.1 Right to License Marks.**

Franchisor warrants that it has the right to grant the franchise and to license the Marks and the Cowboy Jack's System to Franchisee. Any and all changes or improvements made by Franchisee to the Marks or the Cowboy Jack's System (regardless of whether Franchisor approves their use with the Cowboy Jack's System) will be Franchisor's sole and absolute property, and Franchisor will have the exclusive right to register and protect all such changes and improvements in its name in accordance with applicable law. Franchisee's right to use and identify with the Marks and the Cowboy Jack's System will exist concurrently with the Term and such use by Franchisee will inure exclusively to Franchisor's benefit.

#### **15.2 Conditions to License of Marks.**

Franchisor hereby grants to Franchisee the nonexclusive personal right to use the Marks and the Cowboy Jack's System in accordance with the provisions of this Agreement. Franchisee's nonexclusive personal right to use "Cowboy Jack's" as the name of Franchisee's Restaurant and its right to use the Marks and the Cowboy Jack's System applies only to Franchisee's Restaurant at the Franchised Location and such rights will exist only so long as Franchisee fully performs and complies with all of the conditions, terms and

covenants of this Agreement. “Nonexclusive,” for the purposes of this Section, will mean that Franchisor has or will grant franchises to other franchisees, Entities or persons authorizing them to own and operate Cowboy Jack’s restaurants in conformity with the Cowboy Jack’s System using the name “Cowboy Jack’s” and the other Marks, and that Franchisor and its Affiliate(s) have operated and may continue to own and operate Cowboy Jack’s restaurants.

### **15.3 Franchisee’s Authorized Use.**

Franchisee will only use the Marks that Franchisor designates and only in the manner that Franchisor authorizes and permits. Franchisee’s right to use the Marks is limited to the uses set forth in this Agreement, the Operations Manual, or as Franchisor otherwise directs in writing and any unauthorized use will constitute an infringement of Franchisor’s rights under this Agreement and under the Lanham Act (15 U.S.C. §1051, et seq.). Franchisee will not have or acquire any rights in any of the Marks or the Cowboy Jack’s System other than the right of use as provided herein. Franchisee will have the right to use the Marks and the Cowboy Jack’s System only in the manner prescribed, directed and approved by Franchisor in writing and will not have the right to use the Marks in connection with the sale of any products or services other than those prescribed or approved by Franchisor for sale by Franchisee. If in Franchisor’s judgment, the acts of Franchisee are contrary to the limitations set forth in this Agreement or infringe upon or demean the goodwill, uniformity, quality or business standing associated with the Marks or the Cowboy Jack’s System, then Franchisee will, upon written notice from Franchisor, immediately modify its use of the Marks or the Cowboy Jack’s System in the manner prescribed by Franchisor in writing.

### **15.4 Improvements.**

If Franchisee or the Owners develop any new or revised concept, product, recipe, trademark, service mark, branding concept, process or improvement in or related to the operation or promotion of the Restaurant or the Cowboy Jack’s System (“**Improvements**”), then Franchisee will promptly provide Franchisor with a detailed summary of the Improvements. Franchisee and the Owners acknowledge and agree that: (a) all Improvements made by Franchisee and the Owners are Franchisor’s property; (b) Franchisee will execute and deliver any documents or instruments required by Franchisor to memorialize or evidence its ownership of the Improvements; (c) Franchisor will have the right to incorporate any or all of the Improvements into the Cowboy Jack’s System and/or the Marks; and (d) Franchisor will have the right to use and authorize its Affiliates and franchisees to use any or all Improvements in the operations of any or all Cowboy Jack’s restaurants without any compensation to Franchisee.

### **15.5 Adverse Claims to Marks.**

If there are any Claims by any party that its rights to any or all of the Marks are superior to Franchisor and if Franchisor’s attorneys are of the opinion that such Claims by a party are legally meritorious, or if there is an adjudication by a court of competent jurisdiction that any party’s rights to the Marks are superior to Franchisor’s, then upon receiving written notice from Franchisor, Franchisee will, at its sole expense, immediately adopt and use the changes and amendments to the Marks that are specified by Franchisor. If so specified, Franchisee will immediately cease using the Marks specified by Franchisor, and will, as soon as reasonably possible, commence using the new trademarks, trade names, service marks, logos, designs and commercial symbols designated by Franchisor in writing at the Franchised Location, and in connection with all advertising, marketing and promotion of Franchisee’s Restaurant. Franchisee will not make any changes or amendments whatsoever to the Marks or the Cowboy Jack’s System without Franchisor’s prior written approval.

### **15.6 Defense or Enforcement of Rights to Marks.**

Franchisee will have no right to and will not defend or enforce any rights associated with the Marks or the Cowboy Jack's System in any court or other proceedings for or against imitation, infringement, prior use or for any other Claims or allegation. Franchisee will give Franchisor immediate written notice of any and all Claims or complaints made against or associated with the Marks and the Cowboy Jack's System and will, without compensation for its time and at its expense, cooperate in all respects with Franchisor in any lawsuits or other proceedings involving the Marks and the Cowboy Jack's System. Franchisor will have the sole and absolute right to determine whether Franchisor will commence or defend any litigation involving the Marks and/or the Cowboy Jack's System, and the cost and expense of all litigation incurred by Franchisor, including attorneys' fees, specifically relating to the Marks or the Cowboy Jack's System will be paid by Franchisor.

### **15.7 Tender of Defense.**

If Franchisee is named as a defendant or party in any action involving the Marks or the Cowboy Jack's System solely because the plaintiff or claimant is alleging that Franchisee does not have the right to use the Marks or the Cowboy Jack's System, then Franchisee will have the right to tender the defense of the action to Franchisor, and Franchisor will, at its expense, defend Franchisee in the action provided that Franchisee has tendered defense of the action to Franchisor within 7 days after receiving service of the pleadings or the summons and complaint relating to the action. Franchisor will indemnify and hold Franchisee harmless from any Damages assessed against Franchisee in any actions resulting solely from Franchisee's use of the Marks or the Cowboy Jack's System at the Franchised Location if Franchisee has timely tendered defense of the action to Franchisor.

### **15.8 Franchisee's Right to Participate in Litigation.**

Franchisee may, at its expense, retain an attorney to represent it individually in all litigation and court proceedings involving the Marks or the Cowboy Jack's System, and may do so with respect to matters involving only Franchisee (i.e., not involving Franchisor or its interests); however, Franchisor and its attorneys will control and conduct all litigation involving the Marks or the Cowboy Jack's System and its rights. Except as expressly provided for herein, Franchisor will have no liability for any costs that Franchisee may incur in any litigation involving the Marks or the Cowboy Jack's System, and Franchisee will pay for all costs, including attorneys' fees, that it may incur in any litigation or proceeding arising as a result of matters referred to under this Section, if Franchisee has not timely tendered the defense to Franchisor in accordance with Section 15.7.

## **SECTION 16** **OTHER OBLIGATIONS**

### **16.1 Other Obligations.**

Consistent with Franchisor's uniformity requirements and quality standards, Franchisor will: (a) provide Franchisee with a written schedule of all Foods, Beverages, and Products sold or used by Cowboy Jack's restaurants, and the FF&E and supplies required for the operation of Franchisee's Restaurant; (b) provide Franchisee with a list of the Approved Suppliers and Designated Suppliers for the Foods, Beverages, and Products and the FF&E for Franchisee's Restaurant; (c) make available to Franchisee basic restaurant-level sales and cost accounting and business procedures for use by Franchisee in its Restaurant; (d) provide Franchisee written reports regarding Franchisee's performance and System conformity; (e) periodically make general local marketing recommendations to Franchisee; (f) visit and review Franchisee's Restaurant as often as Franchisor deems necessary and render written reports to Franchisee as Franchisor deems

appropriate; (g) protect, police and, when appropriate, enforce the Marks for the benefit of Cowboy Jack's franchisees in the manner deemed appropriate by Franchisor; (h) develop and, if applicable, register additional trademarks, trade names, service marks, tag lines, logos or commercial symbols for use in connection with the Cowboy Jack's System as Franchisor deems appropriate; (i) upon the reasonable written request of Franchisee, render reasonable advisory services by telephone or in writing pertaining to the operation of Franchisee's Restaurant; (j) provide Franchisee with a sample of the standard Cowboy Jack's menu, and all modifications and updates to the menu; and (k) provide Franchisee with a written or electronic copy of the Operations Manual, together with all written or electronic copies of the supplements and updates that Franchisor publishes from time to time.

## **16.2 Consulting Assistance.**

If Franchisee requests that Franchisor provides a consultant to train, assist or advise Franchisee on management and operations issues at the Franchised Location, then Franchisee will reimburse Franchisor for the Travel Expenses incurred by the consultant and will pay Franchisor the Per Diem Training Fee for each day the consultant provides training, assistance or advice to Franchisee.

## **SECTION 17** **ASSIGNMENT**

### **17.1 Assignment of Agreement by After Midnight.**

Franchisor may unilaterally Assign this Agreement (and any interest herein) to a person or Entity without the approval of Franchisee and, upon assignment, this Agreement will inure to the benefit of Franchisor's successors and assigns. Franchisor will provide Franchisee with written notice after the Assignment has been completed. Any assignee of Franchisor will be required to fully perform all of Franchisor's obligations under this Agreement.

### **17.2 Assignment of Agreement to Beneficiary or Entity.**

If Franchisee is an individual and has personally signed this Agreement, then in the event of the death or permanent disability of Franchisee, this Agreement may be Assigned to any designated person or beneficiary (the "**Beneficiary**") without the payment of any Assignment Fee and without complying with Section 21. However, the Assignment of this Agreement to Franchisee's Beneficiary will be subject to the applicable provisions of Section Error! Reference source not found. - Error! Reference source not found. and will not be valid or effective until Franchisor has received the properly executed legal documents which Franchisor's attorneys deem necessary to document the Assignment of this Agreement to the Beneficiary. The Beneficiary must agree to be unconditionally bound by the terms and conditions of this Agreement and must successfully complete the Training Program. There will be no charge to the Beneficiary for attending the Training Program; however, the Salary and Benefits and the Travel Expenses of the Beneficiary will be paid by the Beneficiary. In addition, this Agreement may be Assigned by Franchisee to an Entity without the payment of an Assignment Fee and without complying with Section 21 if Franchisee is an individual or a general partnership, provided that the Owner or Owners of the Entity are the same person or persons who signed this Agreement. In the interim period in which a Beneficiary is designated, and if a satisfactory Beneficiary is not retained, Franchisor will have the right (but not the obligation) to take over operation of the Franchised Location, or to hire and retain a replacement on Franchisee's behalf, until the Assignment is completed, and Franchisor will charge a reasonable management fee for these services.

### **17.3 Assignment by Franchisee.**

Franchisee will not Assign any interest in or any part of this Agreement, the Franchise or the Restaurant to any person or Entity without Franchisor's prior written approval. Franchisor will not withhold its written consent to the Assignment by Franchisee if the Assignment does not violate any of the terms of this Agreement, if Franchisor does not exercise its rights under Section 21 of this Agreement, and if Franchisee and/or the assignee-franchisee are in full compliance with the following terms and conditions:

- (a) Franchisee has provided Franchisor with written notice of the proposed Assignment of this Agreement at least 45 days prior to the transaction;
- (b) all of Franchisee's monetary obligations due to Franchisor have been paid in full, and Franchisee is not otherwise in default under this Agreement;
- (c) Franchisee has agreed in writing to observe all applicable provisions of this Agreement, including the covenants not to compete contained in this Agreement;
- (d) Franchisor, the Owners, and Franchisee have executed a joint and mutual release, in a form satisfactory to Franchisor, of any and all Claims against Franchisor and/or Franchisee and their respective Executive Management, Owners, agents and employees, in their corporate and individual capacities, arising from, in connection with, or as a result of this Agreement, the operation of the Restaurant or Franchisee's purchase of the Franchise including, without limitation, all Claims arising under any federal or state franchising laws or any other federal, state or local law, rule or ordinance; provided, however, that Franchisor and Franchisee may exclude from the coverage of the release any prior or concurrent written agreements between them for other Cowboy Jack's restaurants owned by Franchisee;
- (e) the assignee-franchisee has demonstrated to Franchisor's satisfaction that he, she or it meets the managerial, financial and business standards that Franchisor requires for new franchisees, possesses a good business reputation and credit rating, and that its management possesses the aptitude and ability to operate the Restaurant in an economic and businesslike manner (as may be evidenced by prior related business experience or otherwise);
- (f) the assignee-franchisee and all of the assignee-franchisee's Owners execute the legal agreements that Franchisor or its legal counsel requires to document the Assignment of this Agreement to the assignee-franchisee including, at Franchisor's option, Franchisor's then-current standard Franchise Agreement;
- (g) the assignee-franchisee has purchased or leased the Franchised Location for a term consistent with the remaining term of this Agreement or, if applicable, the term of the then-current standard Franchise Agreement;
- (h) the assignee-franchisee has purchased or otherwise acquired a valid liquor license and a valid food service license for the Restaurant at the Franchised Location;
- (i) the assignee-franchisee and its Management Staff have successfully completed the Training Program required under this Agreement; and
- (j) any purchase and sale agreement between the Franchisee and assignee-franchisee (or other transferor and transferee) shall provide for and require that the Restaurant shall continue to operate without interruption during the assignment.

If a proposed assignment would result in a change in control of Franchisee, the Franchise, or any of Franchisee's assets, including any Restaurants owned, operated, or controlled by Franchisee, and such change in control would result in the transferee-franchisee and its affiliates collectively, either directly or indirectly, owning more than five (5) Restaurants, including the Restaurant being transferred, then Franchisor may, at its sole discretion, withhold its written consent to the transfer and such withholding will not be considered unreasonable. Franchisor may expand upon, and provide more details related to, the conditions for transfer and Franchisor's consent as described in this Section 17.3, and may do so in the Operations Manual or otherwise in writing.

#### **17.4 Assignment of Ownership Interest.**

No Owner will have the right to Assign an Ownership Interest in Franchisee without Franchisor's prior written approval. Franchisor will not withhold its written consent if the Assignment of the Ownership Interest by the Owner if the Owner complies in all respects with the terms of this Agreement, and if Franchisor does not exercise its right of first refusal to acquire the Owner's Ownership Interest in Franchisee pursuant to Section 21.8.

#### **17.5 Acknowledgment of Restrictions.**

Franchisee and Owners acknowledge and agree that the restrictions on Assignment imposed herein are reasonable and necessary to protect the Cowboy Jack's System and the Marks, as well as Franchisor's reputation and image, and are for the protection of Franchisor, Franchisee and all other franchisees who own and operate Cowboy Jack's restaurants. Any Assignment permitted by this Section will not be effective until Franchisor receives a completely executed copy of all Assignment documents and Franchisor consents to the Assignment in writing. Any attempted Assignment made without complying with the requirements of this Section will be void.

#### **17.6 Assignment Fee.**

If this Agreement is Assigned to another person or Entity, or if any of the Owners Assign any Ownership Interest in Franchisee to a third party, Franchisee will pay Franchisor, on or before the date of the Assignment, an Assignment Fee of \$5,000. The Assignment Fee is to cover the costs that Franchisor incurs in connection with the Assignment. Franchisor also reserves the right to charge the assignee-franchisee the Per-Diem Training Fee to cover the costs of providing the Training Program to the assignee-franchisee and its Management Staff. The assignee-franchisee will also be responsible for all Salaries and Benefits, Travel Expenses and other expenses incurred by all personnel attending the Training Program on behalf of the assignee-franchisee.

#### **17.7 Assignment to Competitor Prohibited.**

Franchisee and the Owners will not Assign this Agreement or their Ownership Interests in Franchisee, the Restaurant or the Franchise to any person or Entity that owns, operates, franchises, develops, consults with, manages, is involved in, or controls any Competitive Restaurant. If Franchisor refuse to permit an Assignment of this Agreement under this provision, then the only remedy of Franchisee and the Owners will be to have a mediator or arbitrator determine whether the proposed assignee owns or operates a Competitive Restaurant.

**SECTION 18**  
**TERMINATION RIGHTS OF AFTER MIDNIGHT**

**18.1 Termination; Conditions of Breach.**

In addition to Franchisor's other rights of termination contained in this Agreement, Franchisor will have the right to terminate this Agreement if:

- (a) within 120 days after the date of this Agreement, Franchisor determines that any required or other financial, personal or other information provided by Franchisee to Franchisor is materially false, misleading, incomplete or inaccurate;
- (b) Franchisee has not purchased or leased a site for the Franchised Location within 120 days after the date of this Agreement;
- (c) Franchisee has not obtained all licenses, permits, and certifications required for the service of food for its Restaurant from the appropriate Governmental Authorities at least 10 days before the Required Opening Date;
- (d) Franchisee has not obtained a valid liquor license for its Restaurant from the appropriate Governmental Authorities at least 10 days before the Required Opening Date;
- (e) Franchisee or any member of the Management Staff has not completed the Training Program required under this Agreement at least 30 days prior to the Required Opening Date;
- (f) Franchisee materially violates any federal, state or municipal law, rule, code or regulation applicable to Franchisee's Restaurant operations, including a violation of any health department rules or regulations relating to any food safety standards that would in any way endanger the health or well-being of any guest of Franchisee's Restaurant;
- (g) Franchisee breaches any material provision, term or condition of this Agreement including, but not limited to, the failure to timely pay any Fees, rents or any other monetary obligations due and payable to Franchisor or its Affiliate(s) pursuant to this Agreement or any other agreement;
- (h) Franchisee, any of its Executive Management or Owners are convicted of, or plead guilty to a violation of any federal or state law that has a material adverse effect on the operations of Franchisee's Restaurant or a crime involving dishonesty, fraud, or moral turpitude;
- (i) Franchisee fails to timely pay any of its uncontested obligations or liabilities due and owing to Franchisor, any Affiliate, the Local Advertising Association, suppliers, banks, purveyors, other creditors or to any federal, state or municipal government;
- (j) Franchisee is determined to be insolvent within the meaning of applicable state or federal law, any involuntary petition for bankruptcy is filed against Franchisee, or Franchisee files for bankruptcy or is adjudicated a bankrupt under applicable state or federal law;
- (k) Franchisee makes an assignment for the benefit of creditors or enters into any similar arrangement for the disposition of its assets for the benefit of creditors;
- (l) any check issued by Franchisee is dishonored because of insufficient funds (except where the check is dishonored because of an error in bookkeeping or accounting) or closed accounts;

- (m) Franchisee voluntarily or otherwise Abandons the Restaurant;
- (n) Franchisee is involved in any act or conduct which materially impairs the goodwill associated with the name “Cowboy Jack’s,” or any other Marks or the Cowboy Jack’s System;
- (o) the Lease for the Franchised Location is terminated or canceled for non-payment of rent or other legal reasons or Franchisee is evicted from the Franchised Location;
- (p) any license, permit, or certification required for food service and, if applicable, liquor service at Franchisee’s Restaurant is canceled for any reason;
- (q) Franchisee fails to provide the Financial Records that Franchisor requests to substantiate the Financial Statements or to produce and permit Franchisor to audit Franchisee’s Financial Records in accordance with this Agreement;
- (r) Franchisee fails to open the Restaurant and commence business operations by the Required Opening Date; or
- (s) Franchisee, an Affiliate of Franchisee, or an Owner breaches any other agreement between such person or Entity and Franchisor or Franchisor’s Affiliate.

## **18.2 Notice of Breach.**

Except as provided in Sections 18.4 and 18.5, Franchisor will not have the right to terminate this Agreement until: (a) Franchisor has delivered written notice setting forth the alleged breach in detail to Franchisee; and (b) after receiving the written notice, Franchisee fails to correct the alleged breach within the period of time specified by applicable law. If applicable law does not specify a time period to correct an alleged breach, then Franchisee will have 30 days after receipt of the written notice to correct the alleged breach, except where the written notice states that Franchisee is delinquent in the payment of any of the Fees, rents or other monetary obligations payable to Franchisor or an Affiliate pursuant to this Agreement or any other agreement, in which case Franchisee will have 15 days after receipt of written notice to correct the breach by making full payment to Franchisor, together with interest on the past-due obligations at the rate of 18% per annum and the applicable Administrative Fees. If Franchisee fails to correct the alleged breach set forth in the written notice within the required period of time, then this Agreement may be terminated by Franchisor as provided for herein. For the purposes of this Agreement, an alleged breach of this Agreement by Franchisee will be deemed to be “corrected” if both Franchisor and Franchisee agree in writing that the alleged breach has been corrected.

## **18.3 Notice of Termination.**

Except as provided in Sections 18.4 and 18.5 of this Agreement, if Franchisor has complied with the provisions of this Section 18.3 and Franchisee has not corrected the alleged breach set forth in the written notice of breach within the applicable time period specified in this Agreement, then Franchisor will have the absolute right to terminate this Agreement by giving Franchisee written notice of termination and, in that event, the effective date of termination of this Agreement will be the day the written notice of termination is received by Franchisee.

## **18.4 Immediate Termination Rights of After Midnight.**

Notwithstanding Section 18.2, Franchisor will have the absolute right, unless precluded by applicable law, to immediately terminate this Agreement if:



- (a) Franchisee or any of its Executive Management or Owners are convicted of, or plead guilty to a charge of violating any law relating to Franchisee's Restaurant;
- (b) Franchisee is deemed insolvent within the meaning of applicable state or federal law, any involuntary petition for bankruptcy is filed against Franchisee and Franchisee is unable within a period of 60 days from such filing to obtain the dismissal of the bankruptcy petition, or Franchisee files for bankruptcy or is adjudicated as bankrupt under applicable state or federal law;
- (c) Franchisee makes an assignment for the benefit of creditors or enters into any similar arrangement for the disposition of its assets for the benefit of creditors;
- (d) Franchisee voluntarily or otherwise Abandons the Restaurant;
- (e) Franchisee fails or refuses to provide the Financial Records and other materials requested by Franchisor to substantiate Franchisee's Financial Statements or to produce and permit Franchisor to audit Franchisee's Financial Records;
- (f) Franchisee is involved in any act or conduct which materially impairs the goodwill associated with the Marks or the Cowboy Jack's System, and Franchisee fails to correct the breach within 24 hours after receipt of written notice of the breach from Franchisor;
- (g) Franchisee breaches any provision, term or condition of this Agreement 3 or more times during any 12-month period, without regard to whether the breaches were of a similar or different nature or whether the breaches were corrected within the prescribed cure period after receipt of written notice of the breaches; or
- (h) Franchisee fails to open its Restaurant and commence business operations by the Required Opening Date.

#### **18.5 Notice of Immediate Termination.**

Except as provided below, if Franchisor terminates this Agreement pursuant to Section 18.4, then Franchisor will give Franchisee written notice that this Agreement is terminated and, in that event, the effective date of termination of this Agreement will be the day the written notice of termination is received by Franchisee. If Franchisor gives notice of termination to Franchisee pursuant to Section **Error! Reference source not found.**, then this Agreement will terminate on the first minute of the 25th hour after receipt of the written notice of termination if Franchisee fails to correct the alleged breach within 24 hours after receiving the written notice of termination.

#### **18.6 Right To Discontinue Supplying Items Upon Default.**

If Franchisor delivers a notice of default to Franchisee, Franchisor will have the right to (a) require that Franchisee pay C.O.D. (i.e., cash on delivery) or by certified check for goods/services, and/or (b) stop selling and/or providing any goods/services to Franchisee until it has cured all defaults. No such action by Franchisor will be a constructive termination of this Agreement, change in competitive circumstances or similarly characterized, and Franchisee agrees that it will not be relieved of any obligations under this Agreement because of any such action.

### **18.7 Non-Compliance Fee.**

In addition to, and notwithstanding the Attorneys' Fees and Costs provision in Section 26.4 of this Agreement, in the event of Franchisee's default under Section 18, or in the event of any instance of Franchisee non-compliance with this Agreement, the Operations Manual, or other policies and Cowboy Jack's System standards, for which Franchisor notifies Franchisee of such default or non-compliance, Franchisor may require Franchisee to pay an administrative fee to Franchisor in the amount of \$1,000 per occurrence, and \$100 for each week such default or non-compliance remains uncured (collectively the "**Non-Compliance Fee**"). Such Non-Compliance Fee is intended to reimburse Franchisor for its damages and other losses incurred, as well as the time, expense, and other expenditure of resources incurred due to Franchisee's default or non-compliance. The additional weekly charge is Franchisor's best estimate of the ongoing costs to monitor Franchisee's action until the default or non-compliance is rectified and cured. The Non-Compliance Fee applies to each notice of non-compliance that Franchisor provides Franchisee, for each separate event, action, or inaction of default or non-compliance. Franchisor's decision to require Franchisee to pay such Non-Compliance Fee shall be without prejudice to Franchisor's right to terminate this Agreement and/or to terminate any other rights, options or arrangements under this Agreement at any time thereafter for the same default or as a result of any additional defaults of the terms of this Agreement.

### **18.8 Other Remedies.**

Nothing in this Section will preclude Franchisor from seeking other remedies or Damages under any state or federal law, common law, or under this Agreement against Franchisee including, but not limited to, attorneys' fees and injunctive relief. If this Agreement is terminated by Franchisor pursuant to this Section, or if Franchisee breaches this Agreement by a wrongful termination or a termination that is not in strict compliance with the terms and conditions of this Agreement, then Franchisor will be entitled to seek recovery of all Damages that Franchisor has sustained and will sustain in the future as a result of Franchisee's breach of this Agreement.

### **18.9 No Equity Upon Termination.**

Franchisee's rights regarding the Franchise for the Restaurant will be controlled by the provisions of this Agreement. Franchisee will have no equity or any other continuing interest in the Franchise, any goodwill associated with the Restaurant or the Marks, or any right to compensation or refunds upon the expiration and/or termination of this Agreement.

### **18.10 Continuing Obligations.**

If this Agreement is terminated because of a default by Franchisee, Franchisee will not be released or discharged from its obligations, including payment of all Fees then due and other amounts which would have become due under this Agreement if Franchisee had continued the operation of the Restaurant for the full term of this Agreement. Franchisor's remedies will include (but are not limited to) the right to collect the present value of these amounts and to receive the benefit of its bargain with Franchisee, as well as to accelerate the balances of any promissory notes owed and to receive any other unpaid amounts owed to Franchisor or any of its Affiliates. It would be commercially unreasonable and damaging to the integrity of the Cowboy Jack's System if a franchisee could default and then escape the financial consequences of its contractual commitment to meet payment obligations for the term of a franchise agreement. Franchisee will sign a general release if Franchisor chooses to waive its rights to collect any amounts that would have become due if Franchisee had continued in business for the term of this Agreement.

**SECTION 19**  
**FRANCHISEE'S TERMINATION RIGHTS**

**19.1 Conditions of Breach.**

Franchisee will have the right to terminate this Agreement, as provided herein, if Franchisor breaches any material provision, term or condition of this Agreement, or fail to timely pay any material uncontested obligations due and owing to Franchisee.

**19.2 Notice of Breach.**

Franchisee will not have the right to terminate this Agreement or to commence any action, lawsuit or proceeding against Franchisor for breach of this Agreement, injunctive relief, violation of any state, federal or local law (including alleged violations of franchise laws), violation of common law (including allegations of fraud and misrepresentation), rescission, Damages, or termination, unless and until: (a) written notice setting forth the alleged breach in detail has been delivered to Franchisor by Franchisee; and (b) Franchisor fails to correct the alleged breach within 30 days after receipt of the written notice. If Franchisor fails to correct the alleged breach within 30 days after receiving written notice, then Franchisee will have the right to terminate this Agreement as provided for herein. For the purposes of this Agreement, an alleged breach of this Agreement by Franchisor will be deemed to be "corrected" if both Franchisor and Franchisee agree in writing that the alleged breach has been corrected.

**19.3 Limitation of Actions by Franchisee.**

Franchisee must give Franchisor written notice of any alleged breach of this Agreement by Franchisor. If Franchisee fails to give written notice to Franchisor of the alleged breach within 12 months from the first day that the alleged breach of this Agreement actually occurred, including any breach of this Agreement by Franchisor based upon any state law, federal law or common law, then the alleged breach by Franchisor will be deemed to be condoned, approved and waived by Franchisee, and the alleged breach by Franchisor will not be deemed to be a breach of this Agreement by Franchisor and Franchisee will be absolutely barred from commencing any action against Franchisor or from recovering any Damages from Franchisor for that specific alleged breach of this Agreement.

**SECTION 20**  
**FRANCHISEE'S OBLIGATIONS UPON TERMINATION OR EXPIRATION**

**20.1 Termination of Use of Marks; Other Obligations.**

If this Agreement is canceled or terminated for any reason or this Agreement expires, then Franchisee will: (a) within 5 days after termination, pay all Fees to Franchisor; (b) immediately return to Franchisor, or at its direction, delete/destroy, all electronic and physical copies of the Operations Manual, menus, advertising materials and all other electronic or printed materials pertaining to the Restaurant, with any returned materials being returned via first class prepaid United States mail; and (c) comply with all other applicable provisions of this Agreement. Upon termination or expiration of this Agreement for any reason, Franchisee's right to use "Cowboy Jack's," the other Marks and the Cowboy Jack's System will terminate immediately in all respects, and Franchisee will not thereafter conduct or promote any business under any name or in any manner that might tend to give the general public the impression that Franchisee is continuing to operate as a Cowboy Jack's franchisee. Without limiting the generality of the foregoing, Franchisee will immediately cease all advertising which includes any of the Marks, will delete all content containing the Marks or any references to Cowboy Jack's or Franchisee's Restaurant from any home page

maintained by Franchisee, and will cease using any and all items or materials which bear or include any of the Marks.

## **20.2 Alteration of Franchised Location.**

If this Agreement expires or is terminated for any reason or if the Franchised Location ever ceases to be used for Franchisee's Restaurant, then within 30 days after the date of the expiration or termination of this Agreement, Franchisee will, at its expense, alter, modify and change both the exterior and interior appearance of the building and the Franchised Location so that it will be clearly distinguished from the standard appearance of a Cowboy Jack's restaurant. At a minimum, such changes and modifications to the Franchised Location will include, but not be limited to: (a) repainting and, where applicable, recovering both the exterior and interior walls of the Franchised Location with totally different colors, including removing any distinctive colors and designs from the walls; (b) removing all furniture, fixtures and other decor items associated with Cowboy Jack's restaurants and replacing them with other decor items not of the general type and appearance customarily used in Cowboy Jack's restaurants; (c) removing all exterior and interior Cowboy Jack's signs and all other items bearing any of the Marks; and (d) immediately discontinuing use of the approved wall decor items and window decals, and refraining from using any items which may be confusingly similar to those used in Cowboy Jack's restaurants.

## **20.3 Telephone Listings.**

Upon termination or expiration of this Agreement, or if Franchisor acquires Franchisee's Restaurant pursuant to this Agreement, Franchisor will have the absolute right to notify the telephone company and all listing agencies of the termination or expiration of Franchisee's right to use all telephone numbers and any classified or other directory listings for the Restaurant and to authorize the telephone company and all listing agencies to transfer to Franchisor or its assignee all telephone numbers and directory listings of Franchisee's Restaurant. Franchisee acknowledges and agrees that Franchisor has the absolute right and interest in and to all telephone numbers and directory listings associated with the Marks, and Franchisee hereby authorizes Franchisor to direct the telephone company and all listing agencies to transfer Franchisee's telephone numbers and directory listings to Franchisor or to an assignee of Franchisor, if this Agreement expires or is terminated or if Franchisor acquires Franchisee's Restaurant. The telephone company and all listing agencies may accept this Agreement as evidence of the exclusive rights of Franchisor to such telephone numbers and directory listings and this Agreement will constitute the authority from Franchisee for the telephone company and listing agency to transfer all such telephone numbers and directory listings to Franchisor. This Agreement will constitute a release of the telephone company and listing agencies by Franchisee from any and all Claims and Damages that Franchisee may at any time have the right to allege against them in connection with this Section. Franchisee will execute the Telephone Listing Agreement attached as an exhibit to this Agreement and such other documents as Franchisor may require for completing the transfer of the telephone numbers as contemplated herein.

## **20.4 Continuation of Obligations.**

The indemnities and covenants contained in this Agreement will continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

## **SECTION 21**

### **OPTION OF AFTER MIDNIGHT TO PURCHASE**

#### **21.1    Terms of Option.**

Franchisee will not Assign or otherwise dispose of any interest in or any part of the Major Assets to any purchaser without first offering the same to Franchisor in a written offer that contains the purchase price, payment terms, purchase conditions, and all other material terms and conditions of the proposed transaction with the third party, including price and payment terms (the “**Franchisee’s Offer**”). Franchisor will have 21 days after receipt of Franchisee’s Offer to give Franchisee written notice which will either waive its option to purchase (the “**Waiver Notice**”) or will state that it intends to exercise its rights to purchase or acquire the Major Assets according to the terms contained in Franchisee’s Offer (the “**Letter of Intent**”).

#### **21.2    Due Diligence Review.**

If Franchisor provides Franchisee with a Letter of Intent within 21 days after receipt of Franchisee’s Offer, then Franchisor will have 60 days after the date the Letter of Intent is received by Franchisee (the “**Notice Date**”) to conduct a “due diligence” review. Franchisee will promptly provide Franchisor with all Financial Information, Financial Records, and other information requested by Franchisor or its accountants to conduct its “due diligence” review. Franchisor will have the absolute and unconditional right to terminate the Letter of Intent and any obligation to purchase the Major Assets from Franchisee for any reason and at any time during the 60-day “due diligence” review period by giving Franchisee written notice.

#### **21.3    Good Faith Negotiations.**

Unless Franchisor terminates its Letter of Intent as provided in Section 21.2, then Franchisor and Franchisee will act in good faith to agree on the terms and conditions of the definitive agreement or agreements for the purchase of the Major Assets (other than those objective terms and conditions contained in Franchisee’s Offer) and the closing date for the sale of the Major Assets to Franchisor will take place at its offices within 90 days after the Notice Date.

#### **21.4    Sale to Purchaser.**

Franchisee will have the right to complete the transaction for the sale of the Major Assets to a purchaser according to the terms and conditions contained in Franchisee’s Offer to Franchisor if: (a) Franchisor delivers a Waiver Notice to Franchisee, (b) Franchisor fails to deliver either a Waiver Notice or the Letter of Intent to Franchisee within 21 days after receiving Franchisee’s Offer, (c) Franchisor terminates its Letter of Intent during the due diligence period pursuant to the provisions of Section 21.2, or (d) Franchisor and Franchisee fail to agree on the terms and conditions for the definitive agreement or agreements for the purchase of the Major Assets by Franchisor from Franchisee (other than those objective terms and conditions contained in Franchisee’s Offer) on or before the 60th day after the Notice Date.

#### **21.5    Negotiated Changes with Purchaser.**

If Franchisor does not purchase the Major Assets from Franchisee under the terms and conditions contained in Franchisee’s Offer, and if during any negotiations with the purchaser Franchisee agrees to negotiate, change, delete, or modify any of the terms and conditions contained in Franchisee’s Offer or the terms and conditions contained in the most recent version of the definitive agreement or agreements proposed by Franchisee during negotiations that were not acceptable to Franchisor, then Franchisee will be required to re-offer to sell the Major Assets to Franchisor under the new terms and conditions offered to the purchaser in accordance with the provisions of this Section.

### **21.6 Financing Exception.**

This Section will not apply to the Assignment of any of the Major Assets (with the exception of this Agreement) by Franchisee to a bank, financial institution or other lender in connection with Franchisee's financing of (a) the real estate or leasehold improvements for the Franchised Location, (b) the FF&E for Franchisee's Restaurant, (c) inventory or supplies for the Restaurant, or (d) working capital required by the Restaurant.

### **21.7 Compliance with Agreement.**

Franchisee's obligations under this Agreement including, but not limited to, its obligations to pay all Fees and to operate the business as a Cowboy Jack's restaurant, will in no way be affected or changed because of non-acceptance by Franchisor of Franchisee's Offer and as a consequence, the terms and conditions of this Agreement will remain in full force and effect. The decision by Franchisor not to exercise the option to purchase granted to it pursuant to this Section will not, in any way, be deemed to grant Franchisee the right to terminate this Agreement and will not affect the term of this Agreement. Moreover, if Franchisor does not exercise the option to purchase granted to it pursuant to this Section and if Franchisee sells or otherwise disposes of its Major Assets to a third party, then both Franchisee and the purchaser will be required to comply in all respects with the terms and conditions of Section 17 of this Agreement. Any Assignment of the Major Assets of Franchisee's Restaurant that does not include an Assignment of this Agreement to the assignee will constitute a wrongful termination of this Agreement by Franchisee.

### **21.8 Assignment of Ownership Interest.**

The Ownership Interests owned by Franchisee or by the Owners of Franchisee may not be Assigned by Franchisee or the Owners until the Ownership Interests have first been offered to Franchisor in writing. If Franchisee or the Owners desire to Assign their Ownership Interests, then they will first offer the Ownership Interests in Franchisee to Franchisor in writing under the same terms and conditions as those being offered to any party. Franchisor will have 60 days to accept any offer to purchase the Owner's Ownership Interest in Franchisee. The Owner will be required to comply with the provisions of Section 17.4 if Franchisor does not exercise its right to purchase the Owner's Ownership Interest.

### **21.9 Acknowledgment of Restrictions.**

Franchisee and Owners acknowledge and agree that the restrictions on Assignment imposed herein are reasonable and are necessary to protect the Cowboy Jack's System and the Marks, as well as Franchisor's reputation and image, and are for the protection of Franchisor, Franchisee and all other franchisees who own and operate Cowboy Jack's restaurants. Any Assignment permitted by this Agreement will not be effective until Franchisor receives a completely executed copy of all Assignment documents and Franchisor consents to the Assignment in writing.

### **21.10 Right of After Midnight to Purchase Major Assets.**

If this Agreement expires or is terminated by either Franchisor or Franchisee for any reason whatsoever, if Franchisee wrongfully terminates this Agreement by failing to comply with Section 19 or if Franchisee at any time ceases to do business as a Cowboy Jack's restaurant, then Franchisor will have the right, but not the obligation, to purchase from Franchisee any or all of the Major Assets. Within 2 business days after this Agreement expires or is terminated by either party, is wrongfully terminated by Franchisee, or Franchisee ceases to do business as a Cowboy Jack's restaurant, Franchisee must give Franchisor written notice of Franchisee's asking price for each of the Major Assets. If Franchisee fails to give Franchisor written notice of the asking price for the Major Assets and/or if Franchisor and Franchisee cannot agree on

the price of the Major Assets, then either party will have the right to demand that the price of the Major Assets be determined by arbitration conducted in the municipality in which Franchisor's headquarters are then located, in accordance with the Code of Procedure of the National Arbitration Forum, Post Office Box 50191, Minneapolis, Minnesota 55405 (www.adrforum.com). The arbitration hearing will be held as soon as possible, but in no event later than 7 days after the date arbitration is demanded by either party. The Arbitrator will not consider any value for goodwill associated with the name "Cowboy Jack's" in determining the fair market value of the Major Assets since the right of purchase granted to Franchisor pursuant to this provision applies only after this Agreement has expired or been terminated or Franchisee has ceased doing business. The Arbitrator may not include the value of the Lease for the Franchised Location if Franchisor gives the Arbitrator written notice that Franchisor intends to exercise its right to assume the Lease. If the Arbitrator is unable to determine the fair market value of any of the Major Assets, then they will be valued at book value as determined by generally accepted accounting principles (cost less depreciation). Franchisor will have the right, but not the obligation, to purchase any or all of the Major Assets from Franchisee for cash within 20 days after the fair market value of the Major Assets has been established by the Arbitrator in writing. Nothing in this provision may be construed to prohibit Franchisor from enforcing the post-term obligations and conditions of this Agreement, including the covenants not to compete contained in Section 22.

#### **21.11 Bankruptcy Issues.**

If Franchisee or any person or Entity holding any Ownership Interests (direct or indirect) in Franchisee becomes a debtor in a proceeding under the U.S. Bankruptcy Code or any similar law in the U.S. or elsewhere, it is the parties' understanding and agreement that any Assignment of Franchisee's obligations and/or rights hereunder, any material assets of Franchisee, or any indirect or direct interest in Franchisee will be subject to all of the provisions of this Section.

### **SECTION 22** **FRANCHISEE'S COVENANTS NOT TO COMPETE**

#### **22.1 Consideration.**

Franchisee and the Owners acknowledge that Franchisee and its Executive Management and employees will receive specialized training, marketing and advertising plans, business strategies, confidential recipes, cooking and food preparation information, and trade secrets from Franchisor pertaining to the Cowboy Jack's System and the operation of the Restaurant. In consideration for this information, Franchisee and the Owners will comply in all respects with the provisions of this Section. Franchisor has advised Franchisee that this is a material provision of this Agreement and that Franchisor will not sell a Franchise to any person or Entity that owns or intends to own, operate or be involved in any Competitive Restaurant; however, Franchisor may, under certain circumstances, exclude from the coverage of Sections 22.2 and 22.3 existing operational restaurant(s) owned and operated by Franchisee on the date of this Agreement, and Franchisee may, with Franchisor's written consent, continue to own and operate such restaurants during the term of this Agreement and thereafter. Franchisee warrants and represents that it does not, except as disclosed to and approved by Franchisor pursuant to this Section 22.1, own, operate or have any involvement with or interest in any Competitive Restaurant.

#### **22.2 In-Term Covenant Not to Compete.**

Franchisee and the Owners will not, during the term of this Agreement, on their own account or as an employee, principal, agent, Franchisee, independent contractor, consultant, affiliate, licensee, partner, officer, director, shareholder, member, manager, governor or Owner of any other person or Entity, own,

operate, lease, franchise, conduct, engage in, be connected with, have any interest in, or assist any person or Entity engaged in any Competitive Restaurant, except with Franchisor's prior written consent.

### **22.3 Post-Term Covenant Not to Compete.**

Except as provided to the contrary in Section 22.1, for a period of 24 months after the termination or expiration of this Agreement, Franchisee and the Owners will not, on their own account or as an employee, principal, agent, Franchisee, independent contractor, consultant, Affiliate, licensee, partner, officer, director, shareholder, member, manager, governor or Owner of any other person or Entity (directly or indirectly, including through a spouse, parent, or child), own, operate, lease, franchise, conduct, engage in, be connected with, have any interest in or assist any person or Entity engaged in any Competitive Restaurant located within 10 miles of the Franchised Location, within 10 miles of any other Cowboy Jack's restaurant, or within any designated market area or territory granted by Franchisor pursuant to a franchise agreement, area development agreement or other agreement. Franchisee and the Owners expressly agree that the time and geographical limitations set forth in this provision are reasonable and necessary to protect Franchisor and its other franchisees if this Agreement expires or is terminated by either party for any reason, and that this covenant not to compete is necessary to give Franchisor the opportunity to resell and/or develop a new Cowboy Jack's restaurant at or in the area near the Franchised Location. Franchisee agrees that the length of time in this Section 22.3 will be tolled for any period during which Franchisee is in breach of the covenants set forth in this Section 22.3 or any other period during which Franchisor seeks to enforce this Agreement.

### **22.4 Ownership of Public Companies.**

Notwithstanding the provisions of Sections 22.2 and 22.3, Franchisee and the Owners will have the right to own up to 1% of any publicly held company or mutual fund that owns, operates, has an interest in, or controls any Competitive Restaurant business, provided that such company has a class of securities that is publicly traded on a national exchange or quotation system and is subject to the reporting requirements of the Securities Exchange Act of 1934, as amended.

### **22.5 Injunctive Relief.**

Franchisee and the Owners agree that the provisions of this Section are necessary to protect legitimate business interest of Franchisor and its franchisees including, without limitation, preventing the unauthorized dissemination of marketing, promotional and other Confidential Information to competitors of Franchisor's and its franchisees, protecting recipes, cooking and food preparation techniques and other trade secrets, protecting the integrity of the franchise system, preventing duplication of the Cowboy Jack's System by unauthorized third parties, preventing damage to and/or loss of goodwill associated with the Marks and protecting Franchisor's intellectual property rights. Franchisee and the Owners also agree that Damages alone cannot adequately compensate Franchisor if there is a breach of this Section by Franchisee or the Owners, and that injunctive relief against Franchisee is essential for the protection of Franchisor and its franchisees. Franchisee and the Owners agree therefore, that if Franchisor alleges that Franchisee or the Owners have breached this Section, then Franchisor will have the right to petition a court of competent jurisdiction for injunctive relief against Franchisee and the Owners, in addition to all other remedies that may be available to Franchisor. Franchisor will not be required to post a bond or other security for any injunctive proceeding. If Franchisor is granted ex parte injunctive relief against Franchisee or Franchisee's Owners, then Franchisee or the Owners will have the right to petition the court for a hearing on the merits at the earliest time convenient to the court.



## **SECTION 23**

### **INDEPENDENT CONTRACTORS**

#### **23.1 Independent Contractors.**

Franchisor and Franchisee are each independent contractors and, as a consequence, there is no employer-employee or principal-agent relationship between Franchisor and Franchisee. Franchisee will not have the right to and will not make any agreements, representations or warranties in the name of or on behalf of Franchisor or represent that their relationship is other than that of Franchisor and franchisee. Neither Franchisor nor Franchisee will be obligated by or have any liability to the other under any agreements or representations made by the other to any third parties.

#### **23.2 Operation of Restaurant Business.**

Franchisee will be totally and solely responsible for the operation of its Cowboy Jack's Restaurant, and will control, supervise and manage all the employees, agents and independent contractors who work for or with Franchisee, including the right to hire and fire its employees. Franchisee will be responsible for the acts of its employees, agents and independent contractors, and will take all reasonable business actions necessary to ensure that its employees, agents and independent contractors comply with all federal, state and local laws, rules and regulations including, but not limited to, all discrimination laws, sexual harassment laws and laws relating to the disabled. Franchisor will not have any right, obligation or responsibility to hire, control, supervise, manage or fire Franchisee's employees, agents or independent contractors, and will no way be involved in the day-to-day operations of Franchisee's Restaurant. Franchisee will be solely responsible for all employment decisions and functions of the Restaurant including, without limitation, those related to hiring, firing, training, compliance with wage and hour requirements, personnel policies, benefits, recordkeeping, scheduling, supervision, and discipline of employees, regardless of whether Franchisee receives information from Franchisor on these subjects. Franchisee acknowledges and agrees that all personnel decisions will be made by Franchisee, without any influence or advice from Franchisor, and such decisions and actions shall not be, nor be deemed to be, a decision or action of Franchisor. Neither Franchisee nor any employee of Franchisee will be considered an employee of Franchisor under any circumstances. To the extent that any legal authority determines that Franchisor has a duty to act or not act with respect to any of Franchisee's employees, Franchisor hereby assigns to Franchisee any such duty, and Franchisee hereby accepts such assignment.

## **SECTION 24**

### **INDEMNIFICATION**

#### **24.1 Indemnification.**

Except as provided for in Section 15.7, the Franchisee will indemnify and hold harmless Franchisor and its current and former Affiliates and Franchisor and their past and present employees, shareholders, members, Owners, attorneys, accountants and agents (individually and collectively, the "**Indemnified Parties**") against, and will reimburse the Indemnified Parties for, all Damages that the Indemnified Parties incur in the defense of or as a result of any Claim brought against the Indemnified Parties arising from, as a result of, in connection with or out of this Agreement, the relationship between Franchisor and Franchisee, the operation of the Franchisee's Restaurant, and/or the Franchisee's or the Franchisee's employees' actions or inaction. The Franchisee will indemnify the Indemnified Parties, without limitation, for all Damages arising from, out of, in connection with, or as a result of any and all Claims including, but not limited to: (a) any personal injury, property damage, commercial loss or environmental contamination resulting from any act or omission of the Franchisee or its Executive Management, employees, agents or representatives; (b) any failure on the part of the Franchisee to comply with any requirement of any federal or state laws or any

rules or regulations of any Governmental Authority; (c) any failure of the Franchisee to pay any of its obligations to any person or Entity; (d) any failure of the Franchisee to comply with any requirement or condition of this Agreement or any other agreement with Franchisor and/or the Indemnified Parties; (e) any misfeasance or malfeasance by the Franchisee or its Executive Management, employees, agents or representatives; (f) any tort committed by the Franchisee or its Executive Management, employees, agents or representatives; or (g) any other Claims brought against any of the Indemnified Parties, including claims brought by the Franchisee. The Franchisee will not be obligated to indemnify the Indemnified Parties for any Damages attributable to, arising out of, from, in connection with, or as a result of any negligence or wrongdoing by the Indemnified Parties. Any of the Indemnified Parties will have the right to defend any Claim made against it arising from, as a result of, in connection with or out of the operation of the Franchisee's Restaurant.

#### **24.2 Payment of Costs and Expenses.**

Franchisee will pay all attorneys' fees, costs, and expenses that Franchisor incurs if Franchisor prevails in any action that Franchisor commences or defends to (a) enforce any term, condition, or provision of this Agreement, or (b) enjoin any violation of this Agreement by either Franchisor or Franchisee. These indemnification provisions and the other obligations contained in this Agreement will continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

### **SECTION 25**

#### **MANDATORY NON-BINDING MEDIATION/ARBITRATION**

##### **25.1 Mediation.**

Except as otherwise stated in this Section 25, the parties agree to submit any claim, controversy or dispute arising out of or relating to this Agreement (and attachments) or the relationship created by this Agreement to non-binding mediation before bringing such claim, controversy or dispute to arbitration or to a court. The mediation will be conducted either through an individual mediator or a mediator appointed by a mediation services organization, experienced in the mediation of disputes between Franchisor and Franchisee, agreed upon by the parties. If the parties do not agree upon a mediator or mediation services organization within 15 days after either party has notified the other of its desire to seek mediation, the dispute will be mediated by the American Arbitration Association pursuant to its rules governing mediation, in Minneapolis, Minnesota, or within 25 miles of Franchisor's then-current headquarters. The costs and expenses of mediation, including compensation of the mediator, will be borne equally by the parties. If the parties cannot resolve the claim, controversy or dispute within 60 days after conferring with the mediator, either party may submit such claim, controversy or dispute to arbitration, or to the appropriate court (if applicable), as described in Sections 25.2 and Section 25.4 below.

##### **25.2 Arbitration.**

Except to the extent Franchisor elects to enforce the provisions of this Agreement by injunction as provided in Section 25.4 below, all disputes, claims and controversies between the parties arising under or in connection with this Agreement or the making, performance or interpretation thereof (including claims of fraud in the inducement and other claims of fraud in the arbitrability of any matter) that have not been settled by or are not otherwise subject to mediation as described in Section 25.1 above will be resolved by arbitration on an individual basis under the authority of the Federal Arbitration Act in Minneapolis, Minnesota, or within 25 miles of Franchisor's then-current headquarters. The arbitrator(s) will have a minimum of 5 years' experience in franchising or distribution law and will have the right to award specific performance of this Agreement. The proceedings will be conducted under the Commercial Arbitration Rules of the American Arbitration Association, or the rules of such other arbitration services organization

as the parties otherwise may agree upon in writing, to the extent such rules are not inconsistent with the provisions of this arbitration provision or the Federal Arbitration Act. The decision of the arbitrator(s) will be final and binding on all parties; provided, however, the arbitrator(s) may not under any circumstances: (1) stay the effectiveness of any pending termination of this Agreement; (2) assess punitive or exemplary damages; or (3) make any award which extends, modifies or suspends any lawful term of this Agreement or any reasonable standard of business performance we establish. Any arbitration proceeding will be limited to controversies between Franchisor and Franchisee, and will not be expanded to include any other Cowboy Jack's franchisee or include any class action claims. This Section 25 will survive termination or nonrenewal of this Agreement under any circumstances. Judgment upon the award of arbitrator(s) may be entered in any court having jurisdiction thereof. During any arbitration proceeding, Franchisor and Franchisee will fully perform their respective obligations under this Agreement.

### **25.3 Miscellaneous.**

The matters set forth in Section 25.4 will not be subject to mediation, arbitration, or the provisions of this Section. All matters, testimony, arguments, evidence, allegations, documents and memorandums, and the decision of the mediator will be confidential in all respects and will not be disclosed to any other person or Entity by either party. Franchisor and Franchisee will continue to perform their respective obligations pursuant to this Agreement during the mediation and arbitration process.

### **25.4 Disputes Not Subject to Mediation Arbitration.**

The following disputes between Franchisor and Franchisee will not be subject to mediation: (a) use of the Marks by either Franchisor or Franchisee; (b) the obligations of Franchisee and Franchisor upon termination or expiration of this Agreement; (c) any alleged breach of the provisions of this Agreement relating to Confidential Information and the in-term and post-term covenants not to compete contained in Section 22; (d) any dispute regarding Franchisee's obligations to indemnify Franchisor and/or an Affiliate for any Claims or Damages pursuant to Section 24 of this Agreement; and (e) any injunctive actions commenced by either party pursuant to this Agreement or pursuant to any statutory or common law rights.

## **SECTION 26** **ENFORCEMENT**

### **26.1 Injunctive Relief.**

Either Franchisor or Franchisee will have the right to petition a court of competent jurisdiction for the entry of temporary and permanent injunctions and orders of specific performance enforcing the provisions of this Agreement for any action relating to: (a) the use of the Marks and/or the Cowboy Jack's System by Franchisor or Franchisee; (b) the obligations of Franchisee or Franchisor upon termination or expiration of this Agreement; and (c) any breaches of the provisions of this Agreement by either Franchisee or Franchisor relating to Confidential Information and the provisions of Section 22 relating to the interpretation, construction or enforcement of the covenants not to compete.

### **26.2 Payments to After Midnight.**

Franchisee will not, on grounds of Franchisor's alleged nonperformance of any of Franchisor's obligations under this Agreement, any other contract between Franchisor and Franchisee, or for any other reason, withhold the payment of any Fees due to Franchisor. Franchisee will not have the right to "offset" or withhold any liquidated or unliquidated amounts, Damages or other funds allegedly due to Franchisee by Franchisor against any Fees due to Franchisor by Franchisee. Franchisor will have the right to deduct from amounts payable to Franchisee by Franchisor or an Affiliate any Fees or other payments owed to Franchisor,

an Affiliate or a third party. Franchisor will also have the right to apply the Fees and other payments made to Franchisor by Franchisee in such order as Franchisor may designate from time to time. As to Franchisee and its Affiliates, Franchisor will have the right to: (a) apply any payments received to any past due, current, future or other indebtedness of any kind, no matter how payment is designated by Franchisee, except that Marketing Fund Fees may only be credited to the Marketing Fund; (b) set off, from any amounts that may be owed by Franchisor, any amount owed to Franchisor, the Marketing Fund or any other fund or account; and (c) retain any amounts received for Franchisee's account (and/or that of any Affiliate of Franchisee), whether rebates from suppliers or otherwise, as a payment against any Fee owed to Franchisor. Franchisor will have the right to exercise any of the foregoing rights in connection with amounts owed to or from Franchisor and/or any Affiliate.

### **26.3 Effect of Wrongful Termination.**

If either Franchisor or Franchisee takes any action to terminate this Agreement or Franchisee takes any action to convert its Restaurant to another business, and such actions were taken without first complying with the terms and conditions of this Agreement, including Section 18 or Section 19 of this Agreement, as applicable, then: (a) such actions will not relieve either party of, or release either party from, any of its obligations under this Agreement; (b) the terms and conditions of this Agreement will remain in full force and effect; and (c) the parties will be obligated to fully perform all terms and conditions of this Agreement until such time as this Agreement expires or is terminated in accordance with the provisions of this Agreement and applicable law.

### **26.4 Attorneys' Fees and Costs.**

Franchisee will fully reimburse and indemnify Franchisor for all attorneys' fees and costs incurred by Franchisor in: (a) enforcing any of the terms and conditions of this Agreement, including a breach of this Agreement, against Franchisee not involving any proceeding or court action; and (b) any proceeding or court action brought against Franchisee to enforce the terms and conditions of this Agreement, including a breach of this Agreement.

### **26.5 Venue and Jurisdiction.**

All court proceedings, lawsuits and court hearings initiated by Franchisee or Franchisor must and will be venued exclusively in the state or federal courts located in Hennepin County, Minnesota. Franchisee and its Executive Management and Owners do hereby agree and submit to personal jurisdiction in such court for the purposes of any suit, proceeding or hearing brought to enforce or construe the terms of this Agreement or to resolve any dispute or controversy arising under, as a result of, or in connection with this Agreement, the Franchised Location or Franchisee's Restaurant, and do hereby agree and stipulate that any such suits, proceedings and hearings will be venued exclusively in such court. Franchisee, its Executive Management and its Owners waive any rights to contest such venue and jurisdiction and waive any rights to argue or contest before any court or Arbitrator the validity of such venue and jurisdiction.

### **26.6 Limitation of Actions.**

Except as provided otherwise in this Agreement or by applicable law, and except for any Claims brought under the indemnification and insurance provisions of this Agreement, any and all Claims arising out of or relating to this Agreement, the relationship between Franchisee and Franchisor, or Franchisee's operation of the Restaurant brought by either party against the other, whether in mediation or any court proceeding, must be commenced within 12 months after the occurrence of the facts giving rise to such Claims, or such Claims will be absolutely barred and unenforceable.

#### **26.7 Waiver of Jury Trial.**

FRANCHISOR AND FRANCHISEE IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER OF THEM AGAINST THE OTHER, WHETHER OR NOT THERE ARE OTHER PARTIES IN SUCH ACTION OR PROCEEDING.

#### **26.8 Waiver of Damages.**

FRANCHISEE HEREBY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO OR CLAIM OF ANY LOST FUTURE PROFITS OR PUNITIVE, EXEMPLARY, CONSEQUENTIAL, OR MULTIPLE DAMAGES AGAINST FRANCHISOR, AND AGREES THAT IN THE EVENT OF A DISPUTE BETWEEN FRANCHISOR AND FRANCHISEE, FRANCHISEE SHALL BE LIMITED TO THE RECOVERY OF ANY ACTUAL DAMAGES SUSTAINED BY IT.

#### **26.9 Severability.**

All provisions of this Agreement are severable and this Agreement will be interpreted and enforced as if all completely invalid or unenforceable provisions were not contained herein and partially valid and enforceable provisions will be enforced to the extent valid and enforceable. If any applicable law or rule of any jurisdiction requires a greater prior notice of the termination of this Agreement than is required hereunder or the taking of some other action not required hereunder, or if under any applicable law or rule of any jurisdiction, any provision of this Agreement or any specification, standard or operating procedure prescribed by Franchisor is invalid or unenforceable under applicable law, then the prior notice or other action required by such law or rule will be substituted for the notice requirements hereof, or such invalid or unenforceable provision, specification, standard or operating procedure will be modified to the extent required to be valid and enforceable. Such modifications to this Agreement will be effective only in such jurisdiction.

#### **26.10 Waiver.**

Franchisor and Franchisee may, by written instrument signed by Franchisor and Franchisee, waive any obligation of or restriction upon the other under this Agreement. Acceptance by Franchisor of any payment or partial payment by Franchisee and the failure, refusal or neglect of Franchisor to exercise any right under this Agreement or to insist upon full compliance by Franchisee of its obligations hereunder will not constitute a waiver by Franchisor of any provisions, covenants, or conditions of this Agreement, or other amounts due. Franchisor will have the absolute right to waive obligations or restrictions for other franchisees under their franchise agreements without waiving those obligations or restrictions for Franchisee and, except to the extent provided by law, Franchisor will have the right to negotiate terms and conditions, grant concessions and waive obligations for other franchisees without granting those same rights to Franchisee and without incurring any liability to Franchisee whatsoever.

#### **26.11 No Oral Modification.**

No modification, change, addition, rescission, release, amendment or waiver of this Agreement and no approval, consent or authorization required by any provision of this Agreement may be made by any person except by a written agreement signed by a duly authorized officer or partner of Franchisee and Franchisor's President or a Vice President.

## **26.12 Entire Agreement.**

This Agreement supersedes and terminates all prior agreements, either oral or in writing, between the parties involving the franchise relationship and therefore, representations, inducements, promises or agreements alleged by either Franchisor or Franchisee that are not contained in this Agreement will not be enforceable. The Introduction is part of this Agreement, which constitutes the entire agreement of the parties, and there are no other oral or written understandings or agreements between Franchisor and Franchisee relating to the subject matter of this Agreement. This Agreement will not supersede any written agreements or contracts that are signed concurrently with this Agreement. In addition, any Area Development Agreement between the parties, as well as any other Franchise Agreement(s), will remain in full force and effect in accordance with the terms and conditions thereof, and will not be superseded by this Agreement. The parties hereby acknowledge that this provision will not act as a disclaimer of the representations made by Franchisor in the Franchise Disclosure Document provided to Franchisee prior to the execution of this Agreement by Franchisee.

## **26.13 Headings; Terms.**

The headings of the Sections are for convenience only and do not in any way define, limit or construe the contents of such Sections. The term “Franchisee” as used herein is applicable to one or more individuals or an Entity, as the case may be, and the singular usage includes the plural, the masculine usage includes the neuter and the feminine, and the neuter usage includes the masculine and the feminine. References to “Franchisee,” “assignee” and “transferee” which are applicable to an individual or individuals will mean the Owner or Owners of the equity or operating control of Franchisee or any such assignee or transferee if Franchisee or such assignee or transferee is an Entity.

## **26.14 Miscellaneous.**

Franchisor’s rights hereunder are cumulative and no exercise or enforcement by Franchisor of any right or remedy hereunder will preclude the exercise or enforcement by Franchisor of any other right or remedy hereunder or which Franchisor are entitled by law to enforce. This Agreement is binding upon the parties hereto and their executors, administrators, heirs, assigns and successors in interest. If Franchisee consists of more than one person or Entity, their liability under this Agreement will be deemed to be joint and several.

## **SECTION 27 NOTICES**

All notices to Franchisor will be in writing and will be made by personal service upon an officer of Franchisor or sent by prepaid certified mail addressed to the President of AMG Franchises LLC, at the address on the cover page of this Agreement, or such other address as Franchisor may designate in writing, with copies to Lathrop GPM LLP, Attention: Ryan R. Palmer, Esq., 3100 IDS Center, 80 South 8th Street, Minneapolis, Minnesota 55402. All notices to Franchisee will be made by personal service (or, if applicable, upon an officer of Franchisee) or sent by prepaid certified mail addressed to Franchisee at the Franchised Location, or such other address as Franchisee may designate in writing. For the purposes of this Agreement, personal service will include service by a recognized overnight delivery service (such as Federal Express, Airborne Express or UPS) which requires a written confirmation of delivery to the addressee. Any notice delivered in the manner specified herein will be deemed delivered and received, regardless of whether the recipient refuses or fails to sign for the notice, if addressed to the recipient at the address set forth above or the last designated or last known address of the recipient, and will be deemed effective upon written confirmation of delivery to the recipient or 3 business days after being mailed, whichever is applicable.

**SECTION 28**  
**ACKNOWLEDGMENTS; DISCLAIMER; MISCELLANEOUS**

**28.1 Disclaimer.**

FRANCHISOR DOES NOT WARRANT OR GUARANTEE THAT FRANCHISEE WILL DERIVE INCOME OR PROFIT FROM ITS RESTAURANT, OR THAT FRANCHISOR WILL REFUND ALL OR PART OF THE INITIAL FEE PAID BY FRANCHISEE OR REPURCHASE ANY OF THE FOODS, BEVERAGES AND PRODUCTS, TECHNOLOGY, OR FF&E SUPPLIED OR SOLD BY FRANCHISOR OR BY AN APPROVED OR DESIGNATED SUPPLIER IF FRANCHISEE IS IN ANY WAY UNSATISFIED WITH ITS RESTAURANT. FRANCHISOR EXPRESSLY DISCLAIMS THE MAKING OF ANY EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES REGARDING THE SALES, EARNINGS, INCOME, PROFITS, GROSS SALES, REVENUES, ECONOMICS, BUSINESS OR FINANCIAL SUCCESS, OR VALUE OF FRANCHISEE'S RESTAURANT EXCEPT AS SPECIFICALLY CONTAINED IN THE FRANCHISE DISCLOSURE DOCUMENT RECEIVED BY FRANCHISEE.

**28.2 Acknowledgments by Franchisee.**

Franchisee acknowledges that it has conducted an independent investigation of the Franchise and recognizes that the business venture contemplated by this Agreement and the operation of the Restaurant involve business and economic risks. Franchisee acknowledges that the financial, business and economic success of Franchisee's Restaurant will be primarily dependent upon the personal efforts of Franchisee, its management and employees, on economic conditions in the area where the Franchised Location is located, and economic conditions in general. Franchisee acknowledges and agrees that Franchisor's officers, directors, employees, and agents act only in a representative capacity and not in an individual capacity, and that no other persons and/or Entities other than Franchisor has or will have any duties or obligations to Franchisee under this Agreement. Franchisee acknowledges that it has not received any estimates, projections, representations, warranties or guaranties, expressed or implied, regarding potential sales, Gross Sales, income, profits, earnings, expenses, financial or business success, value of the Restaurant, or other economic matters pertaining to Franchisee's Restaurant from Franchisor or any of its agents that were not expressly set forth in the Franchise Disclosure Document received by Franchisee from Franchisor ("**Representations**"). Franchisee further acknowledges that if it had received any such Representations, it would have not executed this Agreement, promptly notified its President in writing of the person or persons making such Representations, and provided Franchisor with a specific written statement detailing the Representations made.

**28.3 Business Judgment.**

Franchisee understands and agrees that whenever Franchisor reserves or are deemed to have reserved rights in a particular area, or where Franchisor agrees or is deemed to be required to exercise its rights reasonably or in good faith, Franchisor will satisfy its obligations whenever Franchisor exercises reasonable business judgment in making its decision or exercising a right (regardless of whether such term is expressly stated). A decision or action by Franchisor will be deemed to be the result of reasonable business judgment, even if other reasonable or even arguably preferable alternatives are available, if its decision or action is intended, in whole or significant part, to promote or benefit the System generally even if the decision or action also promotes a financial or other individual interest of Franchisor. Neither Franchisee nor any third party (including, without limitation, a trier of fact) may substitute its judgment for Franchisor's reasonable business judgment.

#### **28.4 Other Franchisees.**

Franchisee acknowledges that other Cowboy Jack's franchisees have or will be granted franchises at different times, different locations, under different economic conditions and in different situations, and further acknowledges that the economics and terms and conditions of such other franchises may vary substantially in form and in substance from those contained in this Agreement.

#### **28.5 Receipt of Agreement and Franchise Disclosure Document.**

Franchisee acknowledges that it received a copy of this Agreement with all material blanks fully completed at least 7 calendar days prior to the date that this Agreement was executed by Franchisee. Franchisee further acknowledges that it received a copy of Franchisor's Franchise Disclosure Document at least 14 calendar days prior to the date on which this Agreement was executed. Franchisee confirms receiving the Franchise Disclosure Document on the date Franchisee signed the acknowledgment of receipt page (the "**Receipt Page**") attached to the Franchise Disclosure Document. Franchisee and Franchisor each acknowledge receiving a signed and dated copy of the Receipt Page.

#### **28.6 After Midnight's Consent.**

Except where expressly provided to the contrary, any consent, approval, authorization, clearance, exemption, waiver, or similar affirmation required from or by Franchisor under the terms of this Agreement will be granted or withheld by Franchisor in its reasonable discretion.

### **SECTION 29 FRANCHISEE'S LEGAL COUNSEL**

Franchisee acknowledges that this Agreement constitutes a legal document that grants certain rights to and imposes certain obligations upon Franchisee. Franchisee has been advised by Franchisor to retain an attorney or advisor prior to the execution of this Agreement to review Franchisor's Franchise Disclosure Document, to review this Agreement in detail, to review all legal documents, including the Lease, all purchase agreements and architectural and construction contracts, to review the economics, operations and other business aspects of the Restaurant, to determine compliance with applicable laws, to advise Franchisee on economic risks, liabilities, obligations and rights under this Agreement, and to advise Franchisee on tax issues, financing matters, applicable state and federal laws, liquor laws, health and safety laws, environmental laws, employee issues, insurance, structure of the Restaurant business, and other legal and business matters. The name and telephone number of Franchisee's attorney or other advisor is: \_\_\_\_\_; Telephone Number: \_\_\_\_\_.  
\_\_\_\_\_; Email Address: \_\_\_\_\_.

### **SECTION 30 GOVERNING LAW; STATE MODIFICATIONS**

#### **30.1 Governing Law; Severability.**

Except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. §1051, et seq.), all claims arising out of or relating to this Agreement and/or the relationship between Franchisor and Franchisee will be governed by the procedural and substantive laws of the state where Franchisee's Restaurant is located, unless applicable state law specifically provides otherwise. The provisions of this Agreement which conflict with or are inconsistent with applicable governing law will be superseded and/or modified by such applicable law only to the extent such provisions are inconsistent. All other provisions of this Agreement will be enforceable as originally made and entered into upon the execution of this



Agreement by Franchisee and Franchisor. The parties agree that any state law or regulation applicable to the offer or sale of franchises or the franchise relationship will not apply unless the jurisdictional provisions are independently met. Franchisee waives, to the fullest extent permitted by law, the rights and protections provided by any such franchise law or regulation.

### **30.2 Applicable State Laws.**

If applicable, the following states have statutes which may supersede the provisions of this Agreement regarding Franchisee's relationship with Franchisor in the areas of termination and renewal of the Franchise: Arkansas [Stat. Section 70-807], California [Bus. & Prof. Code Sections 20000-20043], Connecticut [Gen. Stat. Section 42-133e, et seq.], Delaware [Code Section 2552], Hawaii [Rev. Stat. Section 482E-1], Illinois [815 ILCS 705/19-20], Indiana [Stat. Section 23-2-2.7], Michigan [Stat. Section 19.854(27)], Minnesota [Stat. Section 80C.14], Mississippi [Code Section 75-24-51], Missouri [Stat. Section 407.400], Nebraska [Rev. Stat. Section 87-401], New Jersey [Stat. Section 56:10-1], Virginia [Code 13.1-557-574-13.1-564], Washington [Code Section 19.100.180], and Wisconsin [Stat. Section 135.03]. These and other states may have court decisions that may supersede the provisions of this Agreement regarding Franchisee's relationship with After Midnight in the areas of termination and renewal of the Franchise.

### **30.3 State Law Modifications.**

If the Restaurant is located in any one of the states indicated below in this Article, or if the laws of any such state are otherwise applicable, then the designated provisions of this Agreement will be amended and revised as follows:

(a) Minnesota. If this Agreement is governed by the laws of the State of Minnesota, then: (1) except in certain circumstances specified by Minnesota law, Franchisor must give Franchisee at least 180 days prior written notice of nonrenewal of the Franchise; (2) except in certain circumstances provided by Minnesota law, if Franchisor gives Franchisee written notice that Franchisee has breached this Agreement, such written notice will be given to Franchisee at least 90 days prior to the date this Agreement is terminated by Franchisor, and Franchisee will have 60 days after such written notice within which to correct the breach specified in the written notice; (3) notwithstanding any provisions of this Agreement to the contrary, a court of competent jurisdiction will determine whether Franchisor will be required to post a bond or other security, and the amount of such bond or other security, in any injunctive proceeding commenced by Franchisor against Franchisee or the Owners; (4) any provision in the Agreement that requires litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring the franchisee to consent to liquidated damages, termination penalties or judgment notes is deleted; (5) any provision in the Agreement requiring a franchisee to assent to a general release is deleted; and (6) notwithstanding any provisions of this Agreement to the contrary, Franchisee will have up to 3 years after the cause of action accrues to bring an action against Franchisor pursuant to Minn. Stat. §80C.17.

(b) North Dakota. If this Agreement is governed by the laws of the State of North Dakota, then: (1) the covenant not to compete upon termination or expiration of this Agreement may be unenforceable, except in certain circumstances provided by law; (2) mediation or arbitration hearings will be conducted in Fargo, North Dakota or at a mutually agreed upon location; (3) the consent by Franchisee to jurisdiction and venue in the State of Wisconsin contained in this Agreement will be inapplicable to Franchisee; and (4) any provisions of this Agreement which limit the statute of limitations period for Claims under the North Dakota Franchise Investment Law (the "North Dakota Law") or the parties' rights or remedies under the North Dakota Law, such as the right to recover exemplary or punitive damages or to a jury trial, will not be enforceable.

(c) Wisconsin. If this Agreement is governed by the laws of the State of Wisconsin, then the provisions of the Wisconsin Fair Dealership Law, Wis. Stat. Chapter 135, will supersede any conflicting terms of this Agreement.

## **SECTION 31** **DEFINITIONS**

For purposes of this Agreement, the following words will have the following definitions:

### **31.1 Abandon.**

“Abandon” will mean the conduct of Franchisee indicating the willingness, desire or intent of Franchisee to discontinue operating its Restaurant in accordance with the quality standards, uniformity requirements and the Cowboy Jack’s System as described in this Agreement and the Operations Manual including, but not limited to, the failure of Franchisee to operate the Restaurant during the business hours specified in the Operations Manual for two or more consecutive days without Franchisor’s prior written approval or the failure to remain open for business during the specified business hours.

### **31.2 Accounting Year.**

“Accounting Year” will mean Franchisee’s fiscal year consisting of 12 consecutive calendar months. The definition of Accounting Year may be further defined in the Operations Manual, and may in the future be changed by Franchisor as specified in the Operations Manual or otherwise in writing by Franchisor to address business practices and/or changes in the Internal Revenue Code.

### **31.3 Affiliate.**

“Affiliate” will mean any Entity or individual that, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control with the referenced Entity.

### **31.4 Approved Supplier.**

“Approved Supplier” will mean a supplier, vendor or distributor that Franchisor has approved in writing to supply its products and/or services to Franchisee because its products and/or services conform to the standards and specifications that Franchisor has established, and Franchisor has determined that its business reputation, quality standards, delivery performance, credit rating and other factors are satisfactory.

### **31.5 Area Development Agreement.**

“Area Development Agreement” will mean the agreement entered into between Franchisor and Franchisee granting Franchisee, or an Entity owned by Franchisee and/or the Owners of Franchisee (referred to as the Area Franchisee in the Area Development Agreement), the right to develop the Restaurant at the Franchised Location pursuant to the terms of this Agreement.

### **31.6 Assign or Assignment.**

“Assign” or “Assignment” will mean sale, assignment, pledge, collateral assignment, bequeath, trade, transfer, lease or sublease.

### **31.7 Claims.**

“Claims” will mean any and all demands, complaints, filings, assertions, requests for payment or compensation, challenges, allegations of liability, causes of action, and/or lawsuits.

### **31.8 Competitive Restaurant.**

“Competitive Restaurant” will mean any restaurant, other than another Cowboy Jack’s restaurant, where: (a) 12 or more tap beer selections are offered to customers and at least 10% of its gross sales are derived from the sale of alcoholic beverages; or (b) at least 50% of the food selections offered to its customers consists of hamburgers.

### **31.9 Confidential Information.**

“Confidential Information” will mean and include all of the business, technology, marketing, operational, and proprietary information developed, created, owned or licensed by Franchisor including, but not limited to, the following: (a) all plans and specifications relating to the construction of any Cowboy Jack’s restaurant, drawings and renderings, FF&E specifications and pricing, the names of all Approved Suppliers and Designated Suppliers, pricing information for any Foods, Beverages, and Products sold to any Cowboy Jack’s restaurant, unpublished menus and menu designs, and all food recipes and cooking techniques, (b) all business information, practices, procedures, processes, “know how” and business and operational systems of Franchisor’s, (c) all marketing strategies, programs, and concepts, training programs, Operations Manual and materials, and operational and business development concepts, (d) all exclusive sales and marketing processes taught to Franchisee’s personnel during any training programs, (e) all training programs and materials, (f) all trade secrets, intellectual property, proprietary databases, computer processes, computer systems, computer software programs and all source codes for all computer software programs (excluding commercially available off-the-shelf third-party software programs), (g) all copyrighted materials that have not been publicly disclosed by Franchisor which are marked as “confidential,” (h) all patents of Franchisor, including pending patents, (i) all password-protected websites designed, created and developed by Franchisor, including all passwords, text, content, color schemes, images, graphics, information, look and feel, layout, methodology, metrics, graphical interfaces and functionality, (j) all current and former customer information, whether contained in a point-of-sale system or other computer hardware or software used at Franchisee’s Restaurant, and (j) all other written materials disclosed to Franchisee which have been designated as “confidential” by Franchisor. Franchisee and its employees and agents will not disclose to any person or Entity the name, addresses or any other information relating to any customers or guests of any Cowboy Jack’s restaurant, including Franchisee’s Restaurant, except as authorized electronically or in writing by the customer or guest.

### **31.10 Damages.**

“Damages” will mean all judgments, losses, injuries, awards, reparations, penalties, interest, punitive damages, lost profits, pecuniary compensation, court costs, attorneys’ fees, mediation, arbitration or litigation out-of-pocket costs, settlement payments, deposition and pre-trial costs, mileage, Travel Expenses, investigation fees, and all other amounts paid or incurred as a result of any Claims.

### **31.11 Designated Media Market.**

“Designated Media Market” will mean each media market exclusive of another as defined by the A.C. Nielsen ratings service, the Arbitron radio ratings service or such other ratings service as may be designated by Franchisor.

### **31.12 Designated Supplier.**

“Designated Supplier” will mean a supplier, vendor or distributor designated by Franchisor in writing as Franchisee’s only source for those foods, food items, recipe ingredients, proprietary products, other products and services used or sold in the Restaurant that Franchisor has determined must meet certain quality and uniformity standards to protect the valuable goodwill and uniformity associated with the Marks and the Cowboy Jack’s System.

### **31.13 Develop.**

“Develop,” for the purposes of Section 1.5(c) of this Agreement, will mean to franchise, license, own, manage or operate.

### **31.14 Dollars.**

“Dollars” will mean United States of America dollars.

### **31.15 EFT.**

“EFT” will mean the process relating to the electronic transfer of Fees directly from Franchisee’s bank account to Franchisor’s bank account, as further described in Section 6.2 of this Agreement.

### **31.16 Entity.**

“Entity” will mean a corporation, limited liability company, partnership, limited partnership or any other type of legal entity formed in compliance with applicable law.

### **31.17 Executive Management.**

“Executive Management” will mean: (a) the officers and directors specified in the by-laws if Franchisee is a corporation; (b) the manager, chief manager, managers and/or governors specified in the operating agreement or by-laws if Franchisee is a limited liability company; or (c) the general partner(s) if Franchisee is a partnership or a limited partnership.

### **31.18 Fees.**

“Fees” will collectively mean and include the Initial Fee, the Royalty Fees, the Marketing Fund Fees and all other amounts then due and payable by Franchisee to Franchisor pursuant to this Agreement or any other agreement or for any products or services purchased by Franchisee from Franchisor or any of its Affiliates.

### **31.19 FF&E.**

“FF&E” will mean the furniture, fixtures, supplies and equipment used in the operation of the Restaurant.

### **31.20 Financial Records.**

“Financial Records” will mean all accounting records and ledgers maintained in a written form, on a computer disk or hard drive, and in any other electronic or other form including, but not limited to, sales ledgers, work papers, general ledgers, summaries, schedules, bank statements, cancelled checks, bank deposit slips, federal and state income tax returns, state sales tax returns, Financial Statements, daily cash register tapes, and other financial information.

### **31.21 Financial Statements.**

“Financial Statements” will mean a balance sheet, profit and loss statement, statement of cash flows, and explanatory footnotes prepared in accordance with generally accepted accounting principles applied on a consistent basis.

### **31.22 Foods, Beverages, and Products.**

“Foods, Beverages, and Products” will mean the authorized and/or proprietary foods; food items; beverages, including alcoholic and non-alcoholic beverages; menu items; recipe ingredients; apparel; other branded merchandise; tickets; retail food and beverage products; and FF&E that are specified in the Operations Manual or otherwise approved by Franchisor in writing that are (a) used in the operation of the Restaurant, (b) used in the preparation of any foods or food items, and/or (c) offered for sale to customers of the Restaurant.

### **31.23 Franchise.**

“Franchise” will mean the right granted by Franchisor to Franchisee under this Agreement authorizing Franchisee to operate a Cowboy Jack’s restaurant at the Franchised Location in conformity with the Cowboy Jack’s System using the name “Cowboy Jack’s” and the other Marks.

### **31.24 Franchised Location.**

“Franchised Location” will mean the address, city and state set forth in the Addendum to this Agreement where the Cowboy Jack’s restaurant to be owned and operated under this Agreement by Franchisee will be physically located.

### **31.25 General Manager.**

“General Manager” will mean the individual responsible for the overall management and operation of the Restaurant including, but not limited to, administration, basic operations, marketing, record keeping, employee staffing and training, inventory control, hiring and firing, food preparation and maintenance of the Franchised Location.

### **31.26 Governmental Authority.**

“Governmental Authority” will mean any governmental department, commission, board, bureau, agency, court or other instrumentality of the United States including, but not limited to, federal, state, district or commonwealth thereof, any foreign government or any jurisdiction, municipality or other political subdivision thereof.

### **31.27 Indemnified Parties.**

“Indemnified Parties” will have the meaning given to it in Section 24.1 of this Agreement.

### **31.28 Kitchen Manager.**

“Kitchen Manager” will mean the individual who will assist the General Manager with the management and operation of the Restaurant, with particular emphasis on the preparation of food and beverage items at the Restaurant.

### **31.29 Lease.**

“Lease” will mean the written lease agreement and related documents signed by Franchisee for the Franchised Location.

### **31.30 Major Assets.**

“Major Assets” will mean (a) Franchisee’s Restaurant; (b) the Franchised Location; (c) the Lease for the Franchised Location; (d) the FF&E, inventory, point-of-sale system, customer lists and all other assets used in Franchisee’s Restaurant; (e) this Agreement; (f) any Ownership Interest in Franchisee; (g) all FF&E leases, and (h) the land, building and related real estate used for Franchisee’s Restaurant, if the land, building and real estate are owned by Franchisee.

### **31.31 Management Staff.**

“Management Staff” means the Restaurant’s General Manager and certain other management personnel, as designated by Franchisor.

### **31.32 Marketing Fund.**

“Marketing Fund” will mean the fund maintained by Franchisor account for the Marketing Fund Fees received by Franchisor pursuant to Section 4.1 and the expenditure of the Marketing Fund Fees pursuant to Section 4.2.

### **31.33 Marks.**

“Marks” will mean the name “Cowboy Jack’s” and such other trademarks, trade names, service marks, logos, commercial symbols, phrases, slogans and tag lines as Franchisor has or may hereafter create, own, develop or license for use in connection with restaurants operating under the Cowboy Jack’s System.

### **31.34 Cowboy Jack’s System.**

“Cowboy Jack’s System” will mean the distinctive Foods, Beverages, and Products which are associated with the Marks, copyrights, distinctive interior and exterior building designs, décor, furnishings, menus, uniforms, signs, color combinations, uniformity requirements, standards of consistency and quality, procedures, cleanliness, sanitation, controls, specifications, training, advertising and instructions promulgated by Franchisor.

### **31.35 Cowboy Jack’s Website.**

“Cowboy Jack’s Website” will have the meaning given to it in Section 12.4 of this Agreement.

### **31.36 Operations Manual.**

“Operations Manual” will mean the confidential and copyrighted standard operations manuals and other documents and materials developed by Franchisor for the operation of Cowboy Jack’s Restaurants.

### **31.37 Owner.**

“Owner” will mean any person or Entity who owns (a) any shares of capital stock in Franchisee if Franchisee is a corporation, (b) any membership interests in Franchisee if Franchisee is a limited liability company, (c) any partnership interests in Franchisee if Franchisee is a partnership, (d) any limited or general

partnership interests if Franchisee is a limited partnership, and (e) any other kind or type of Ownership Interest in Franchisee. References to “Franchisee,” “assignee” and “transferee” which are applicable to (i) an individual or individuals will mean the Owner or Owners of an Ownership Interest in Franchisee and (ii) an Entity will mean the Entity that has an Ownership Interest in Franchisee.

### **31.38 Ownership Interests.**

“Ownership Interests” will mean (a) capital stock if Franchisee is a corporation, (b) membership interest if Franchisee is a limited liability company, (c) partnership interest if Franchisee is a partnership, (d) limited or general partnership interests if Franchisee is a limited partnership, and (e) all other types and means of ownership or other legal interest in Franchisee.

### **31.39 Per Diem Training Fee.**

“Per Diem Training Fee” will mean the current daily fee charged by Franchisor for each employee or independent contractor of Franchisor who provides any training, coaching, consulting and/or instructing services or any operational assistance or other services to Franchisee pursuant to the terms of this Agreement. The amount of the Per Diem Training Fee will be the amount specified in the most current publication and update of the Operations Manual, and the amount of the Per Diem Training Fee may be increased from time to time, at Franchisor’s sole option, to account for inflation, increased costs and other economic conditions.

### **31.40 Quarter.**

“Quarter” will mean a 13-week period. The definition of Quarter may be changed from time to time as specified by Franchisor in the Operations Manual or otherwise in writing.

### **31.41 Required Opening Date.**

“Required Opening Date” will mean the date that is 9 months after the date of this Agreement, or as is otherwise agreed upon between Franchisor and Franchisee, unless Franchisee’s Restaurant is being developed pursuant to an Area Development Agreement or other written agreement between Franchisee and Franchisor, in which case the Required Opening Date will be the date specified in the Area Development Agreement or other written agreement between the parties hereto.

### **31.42 Restaurant.**

“Restaurant” will mean the Cowboy Jack’s restaurant operated pursuant to this Agreement in conformity with the Cowboy Jack’s System under the Marks.

### **31.43 Gross Sales Report.**

“Gross Sales Report” means the written or electronic record, in the form designated in the Operations Manual, used to report the daily and Weekly Gross Sales and other specified financial information for Franchisee’s Restaurant.

### **31.44 Gross Sales.**

“Gross Sales” will mean the total dollar sales from all guests or customers of Franchisee’s Restaurant, and will include all cash, credit card, and credit sales made by Franchisee of every kind and nature made at, from, by or in connection with Franchisee’s Restaurant including, but not limited to, all dollars and income

received from the following: (a) the sale of all Foods, Beverages, and Products, including alcoholic and nonalcoholic beverages; (b) the sale of any and all goods, products, merchandise or items sold under any of the Marks; (c) all payments received from or for vending machines, telephones and electronic and other amusement games; (d) all payments received from or for slot machines, gaming machines and other gambling devices (notwithstanding this Agreement's prohibition on the use of such devices at the Franchised Location); (e) all payments received from or for lotteries, lottery tickets and pull tabs notwithstanding this Agreement's prohibition on the sale of such items at the Franchised Location; (f) all sales from the catering of Foods, Beverages, and Products; (g) all sales from the delivery of Foods, Beverages, and Products; (h) all sales of Foods, Beverages or Products for any banquet service; (i) all sales from the carry-out of Foods, Beverages, and Products; (j) all sales of Foods, Beverages, and Products at any locations or sites other than the Franchised Location; (k) all payments received from or for the redemption of gift cards and gift certificates by Franchisee's Restaurant; (l) all payments received from business interruption insurance payments made to Franchisee by any insurance company; and (m) the sale of all Foods, Beverages, and Products to its employees including sales from discounted meals provided to employees and actually paid for by employees. "Gross Sales" will not include (i) any sales, use or gross receipts tax imposed by any Governmental Authority directly upon sales, if the amount of the tax is added to the selling price and is charged to the customer, a specific record is made at the time of each sale of the amount of such tax, and the amount of such tax is paid to the appropriate taxing authority by Franchisee; (ii) the sale (as opposed to the redemption) of gift cards by Franchisee's Restaurant; (iii) the value of complimentary Foods, Beverages, and Products, such as house charges; and (iv) the one-time sale of any FF&E or any inventory items to a purchaser.

#### **31.45 Salaries and Benefits.**

"Salaries and Benefits" will mean the salaries, fringe benefits, including life insurance, medical insurance and retirement plans, payroll taxes, unemployment compensation, workers' compensation insurance, and all other expenses related to employment.

#### **31.46 Travel Expenses.**

"Travel Expenses" will mean all costs incurred for travel, transportation, food, lodging, telephone calls, automobile rental and all other related travel expenses.

#### **31.47 Week or Weekly.**

"Week" or "Weekly" will mean a period of 7 consecutive days beginning on each Monday and ending each Sunday.

*[signatures on next pages]*



IN WITNESS WHEREOF, Franchisor, Franchisee and the Owners have respectively signed this Agreement effective as of the date set forth above.

In the Presence of:

**AMG Franchises LLC**

\_\_\_\_\_  
Signature

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

By \_\_\_\_\_  
Signature

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

Its \_\_\_\_\_  
Title

In the Presence of:

**“Franchisee”**

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Legal Name

By \_\_\_\_\_  
Signature

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

Its \_\_\_\_\_  
Title

In the Presence of:

**And**

\_\_\_\_\_  
Signature

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

By \_\_\_\_\_  
Signature

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

Its \_\_\_\_\_  
Title

Each of the undersigned Owners of Franchisee hereby confirms that the Ownership Interests set forth below for each Owner are true and correct and, as a condition to Franchisor agreeing to enter into this Agreement with Franchisee, each Owner who owns 20% or more of the Ownership Interests of Franchisee agrees to execute and be bound by the terms and conditions of the Personal Guaranty attached to this Agreement.

<u>In the Presence of:</u>	<u>Names of Owners:</u>	<u>Percentage of Ownership:</u>
_____	_____	_____ %
Signature	Signature	
_____	_____	
Print Name	Print Name	
_____	_____	_____ %
Signature	Signature	
_____	_____	
Print Name	Print Name	
_____	_____	_____ %
Signature	Signature	
_____	_____	
Print Name	Print Name	
_____	_____	_____ %
Signature	Signature	
_____	_____	_____ %
Print Name	Print Name	
Total		<u>100%</u>

## **PERSONAL GUARANTY**

THIS PERSONAL GUARANTY (this “Personal Guaranty”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between AMG Franchises LLC (“**Franchisor**”) and each one of the undersigned personal guarantors (the “Personal Guarantors”).

WHEREAS, Franchisor and \_\_\_\_\_, (a/an) \_\_\_\_\_ (“**Franchisee**”) have entered into a Franchise Agreement, dated the same date as set forth above, for the operation of a franchised Cowboy Jack’s restaurant at the Franchised Location set forth in the Franchise Agreement (the “**Franchise Agreement**”).

WHEREAS, it is the desire of each one of the undersigned Personal Guarantors to personally guaranty the obligations of Franchisee under the Franchise Agreement and to be individually, jointly and severally bound by the terms and conditions of the Franchise Agreement.

NOW, THEREFORE, in consideration of the execution of the Franchise Agreement by Franchisor, and for other good and valuable consideration, each one of the undersigned, for themselves, their heirs, successors, and assigns, do individually, jointly and severally hereby become surety and guaranty for the payment of all amounts and the performance of the covenants, terms and conditions of the Franchise Agreement, including the covenants not to compete, to be paid, kept and performed by Franchisee.

Obligations under Agreement. Each one of the undersigned, individually and jointly, hereby agree to be personally bound by each and every condition and term contained in the Franchise Agreement, including the covenants not to compete, and agree that this Personal Guaranty should be construed as though the undersigned and each of them executed an agreement containing the identical terms and conditions of the Franchise Agreement. Each one of the Personal Guarantors acknowledges having received a copy of the Franchise Agreement which is incorporated herein by reference.

Default of Franchisee. If Franchisee defaults on any monetary obligation of the Franchise Agreement, then each one of the undersigned, their heirs, successors and assigns, do hereby, individually, jointly and severally, promise and agree to pay to After Midnight the Initial Fee, Royalty Fees, Marketing Fund Fees and all other Fees due and payable to Franchisor under the terms and conditions of the Franchise Agreement or for any purchases of goods or services made by Franchisee from Franchisor or any its Affiliates.

Noncompliance by Franchisee. If Franchisee fails to comply with any other terms and conditions of the Franchise Agreement, then each one of the undersigned, their heirs, successors and assigns, do hereby, individually, jointly and severally, promise and agree to comply with the terms and conditions of the Franchise Agreement for and on behalf of Franchisee.

Obligations to After Midnight. If Franchisee is at any time in default on any obligation to pay monies to Franchisor or any of its Affiliates, whether for the Initial Fee, Royalty Fees, Marketing Fund Fees, goods or services purchased by Franchisee from Franchisor or any of its Affiliates, or for any other indebtedness of Franchisee to Franchisor or any of its Affiliates, then each of the undersigned, their heirs, successors and assigns, do hereby, individually, jointly and severally, promise and agree to pay all such monies due and payable by Franchisee to Franchisor or any of its Affiliates upon default by Franchisee.

Binding Agreement. Each one of the Personal Guarantors warrant and represent that they have the capacity to execute this Personal Guaranty and that they will each be bound by all of the terms and conditions of this Personal Guaranty. The provisions, covenants and conditions of this Personal Guaranty will inure to the benefit of Franchisor’s successors and assigns.

**Jurisdiction and Venue.** Except as precluded by applicable law, all mediation, arbitration, litigation, actions or proceedings pertaining to this Personal Guaranty will be brought and venued in accordance with the terms of the Franchise Agreement, and each one of the Personal Guarantors agrees to the dispute resolution provisions, including jurisdiction and venue, contained in the Franchise Agreement.

**Personal Guarantors**

_____ Signature	_____ Signature
_____ Print Name	_____ Print Name
_____ Address	_____ Address
_____ City, State and Zip Code	_____ City, State and Zip Code
_____ Telephone	_____ Telephone
_____ Signature	_____ Signature
_____ Print Name	_____ Print Name
_____ Address	_____ Address
_____ City, State and Zip Code	_____ City, State and Zip Code
_____ Telephone	_____ Telephone
_____ Signature	_____ Signature
_____ Print Name	_____ Print Name
_____ Address	_____ Address
_____ City, State and Zip Code	_____ City, State and Zip Code
_____ Telephone	_____ Telephone

_____ Signature	_____ Signature
_____ Print Name	_____ Print Name
_____ Address	_____ Address
_____ City, State and Zip Code	_____ City, State and Zip Code
_____ Telephone	_____ Telephone

**EXHIBIT A**  
**AUTHORIZATION TO HONOR ELECTRONIC FUNDS TRANSFERS**

**Electronic Transfer of Funds Authorization**

Franchisee:

Location:

Date:

NEW	CHANGE

Attention: Franchise Department

The undersigned hereby authorizes AMG Franchises LLC (“**After Midnight**”), to initiate weekly ACH debit entries against the account of the undersigned with you in payment of amounts for Royalty Fees, Marketing Fund Fees, or other amounts that become payable by the undersigned to After Midnight. The dollar amount to be debited per payment will vary.

Subject to the provisions of this letter of authorization, you are hereby directed to honor any such ACH debit entry initiated by After Midnight.

This authorization is binding and will remain in full force and effect until 90 days’ prior written notice has been given to you by the undersigned. The undersigned is responsible for, and must pay on demand, all costs or charges relating to the handling of ACH debit entries pursuant to this letter of authorization.

Please honor ACH debit entries initiated in accordance with the terms of this letter of authorization, subject to there being sufficient funds in the undersigned’s account to cover such ACH debit entries.

\*\*\* Attach VOIDED Check \*\*\*

Sincerely yours,

\_\_\_\_\_  
Account Holder’s Name

\_\_\_\_\_  
Bank Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Branch

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
City State Zip Code

By \_\_\_\_\_

\_\_\_\_\_  
Bank Telephone Number

Its \_\_\_\_\_

\_\_\_\_\_  
Bank’s Routing Number

Date \_\_\_\_\_

\_\_\_\_\_  
Customer’s Account Number

**EXHIBIT B**  
**TELEPHONE LISTING AGREEMENT**

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between AMG Franchises LLC (“**Franchisor**”) and \_\_\_\_\_ (“**Franchisee**”).

**WHEREAS**, Franchisor are the Franchisor of Cowboy Jack’s restaurants and the licensor of the name “Cowboy Jack’s” and certain other trademarks, trade names, service marks, logos and commercial symbols (the “**Marks**”); and

**WHEREAS**, Franchisor and Franchisee have entered into a Franchise Agreement, dated the same date as this Agreement (the “**Franchise Agreement**”) pursuant to which Franchisee is granted the right to operate a franchised Cowboy Jack’s restaurant (the “**Restaurant**”) and to use the Marks in on-line and/or printed book versions of telephone directory listings for Franchisee’s Restaurant; and

**WHEREAS**, Franchisee is authorized to continue using the Marks until such time as the Franchise Agreement is terminated or expires.

**NOW, THEREFORE**, Franchisor and Franchisee hereby agree as follows:

1. Franchisee is authorized to obtain telephone service for Franchisee’s Restaurant. Such service will not be used in conjunction with any other business or residential telephone service.
2. Franchisee is authorized to secure on-line and printed book White Pages, Yellow Pages and directory assistance listings for Franchisee’s Restaurant only in the name of “Cowboy Jack’s.” No other names may be used in conjunction with the Restaurant and the Marks, and no additional listings may be used with the telephone number(s) assigned to the Restaurant, unless approved in writing in advance by Franchisor.
3. All telephone directory listings, Yellow Pages display advertising, layout, and copy will be approved in advance in writing by Franchisor, and Franchisee agrees that it will not place any such copy unless Franchisor’s written approval is attached. Placement of display advertising by Franchisor or its advertising agency for Franchisee through a national Yellow Pages service will constitute automatic approval.
4. Franchisee agrees that the telephone numbers and telephone directory listings for the Restaurant will be considered to be Franchisor’s sole property. Franchisee acknowledges that Franchisor has the absolute right and interest in all of the telephone numbers and telephone directory listings associated with the Marks, and Franchisee hereby authorizes Franchisor to direct the telephone company and all listing agencies to transfer all of Franchisee’s telephone numbers and directory listings to Franchisor or its assignee if the Franchise Agreement expires or is terminated for any reason whatsoever.
5. Upon the expiration or termination of the Franchise Agreement for any reason, Franchisee agrees that it will immediately cease all use of such telephone numbers and telephone directory listings and that all such telephone numbers and telephone directory listings will remain the sole property of Franchisor, subject to its obligation to pay all fees due therefor that become due and payable after the date of the cessation of Franchisee’s right to use the Marks and the telephone numbers and telephone directory listings associated with the Marks.
6. Franchisee hereby releases and forever discharges Franchisor and its successors or assigns and the telephone company from liability of any kind or character which results or may result directly or indirectly

from Franchisor's exercise of its rights hereunder or from the telephone company's cooperation with Franchisor in effecting the terms of this Agreement.

7. Franchisor will have the absolute right to notify the telephone company and all listing agencies of the termination or expiration of Franchisee's right to use all telephone numbers and all classified and other directory listings under the "Cowboy Jack's" name and to authorize the telephone company and all listing agencies to transfer to Franchisor or its assignee all telephone numbers and directory listings of Franchisee's Restaurant.

8. The telephone company and all listing agencies will have the right to accept this Agreement as evidence of Franchisor's exclusive right to such telephone numbers and directory listings, and this Agreement will constitute the authority from Franchisee for the telephone company and listing agency to transfer all such telephone numbers and directory listings to Franchisor. Franchisee will not make any Claims or commence any action against the telephone company and the listing agencies for complying with this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

**"After Midnight"**

**"Franchisee"**

AMG Franchises LLC

By \_\_\_\_\_

Its \_\_\_\_\_

\_\_\_\_\_

By \_\_\_\_\_

Its \_\_\_\_\_



**EXHIBIT C**  
**ADDENDUM TO LEASE**

THIS ADDENDUM TO LEASE (this “**Addendum**”) is dated \_\_\_\_\_, 20 \_\_\_\_, and is entered into by and between:

Franchisee/Lessee: \_\_\_\_\_ (“**Lessee**”)

Street Address: \_\_\_\_\_

City, State: \_\_\_\_\_

and

Lessor: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State: \_\_\_\_\_

Location: \_\_\_\_\_

Lease Agreement Date: \_\_\_\_\_

Effective Date of Franchise Agreement: \_\_\_\_\_

**WHEREAS**, Lessee and Lessor have entered into a Lease Agreement on the date and for the location identified above (the “**Lease**”), in conjunction with the opening or continuation of a Cowboy Jack’s restaurant (the “**Restaurant**”) under a Franchise Agreement between Lessee and AMG Franchises LLC (“**After Midnight**”) (the “**Franchise Agreement**”); and

**WHEREAS**, Lessee has requested and Lessor has agreed to incorporate certain provisions into the Lease as required by the terms of the Franchise Agreement.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

1. **USES**: Lessee shall occupy and use the premises during the term of the Lease only as a Cowboy Jack’s restaurant.

2. **TRADE FIXTURES**: Lessee is and shall be permitted to install and use in the leased premises any and all fixtures and equipment customary or necessary to the operation of a Cowboy Jack’s restaurant, including, but not limited to, movable sinks and partitions, carpets, counters, shelves, and accessories and products used in connection therewith. All of such fixtures and equipment shall remain the property of Lessee and may be removed by Lessee in accordance with the law relating to the removal of trade fixtures, no matter how the same may be installed in, attached to or affixed to the premises.

3. **SIGNS**: Lessee is hereby given the right, at Lessee’s expense, to install and maintain during the term of the Lease, and any extension of the term hereof, a sign or signs advertising Lessee’s business in, on or about the leased premises, subject to Lessor’s prior approval (not to be unreasonably

withheld) and Lessee's compliance with all applicable governmental regulations and receipt of all requisite permits, at Lessee's sole cost and expense. Lessor agrees that the signs may at Lessee's discretion be the maximum size permitted by local code. The signs shall at all times remain the property of Lessee and may be removed by Lessee in accordance with the law relating to the removal of trade fixtures, no matter how the same may be installed on, attached to or affixed to the premises, provided Lessee shall promptly repair any and all damage caused by such removal.

4. **GRACE PERIODS:** Lessee shall not be deemed in default or breach of the Lease unless Lessee shall fail to pay the rent within ten (10) days after the receipt of written notice, and as to any other term, provision, condition or covenant hereof, unless Lessee shall fail to cure or reasonably commence to cure said default or breach within thirty (30) days after written notice from Lessor to Lessee specifying said default or breach.

5. **SUBORDINATION:** Lessor shall use reasonably commercial efforts to deliver to Lessee before commencement, from each mortgagee (including trustee of a trust deed) and ground lessor of real estate including, in whole or in part, the leased premises, a subordination and non-disturbance agreement in mortgagee's standard form providing that this Lease and Lessee's right to possession of the leased premises shall not be disturbed by such mortgagee or ground lessor or any other person or party claiming under or through such mortgagee or ground lessor, provided that Lessee continues to observe and perform Lessee's obligations under the Lease and pay rent to whomsoever may be lawfully entitled to the same from time to time.

6. **DEFAULT/ASSIGNMENT:** Lessor agrees that in the event of default by Lessee under the terms and conditions of the Lease, Lessor will permit the Lease to be assumed by After Midnight or its designee, on the same terms and conditions contained in the Lease, as modified by this Addendum. Lessor agrees to give notice to After Midnight of any default by Lessee under the terms and conditions of the Lease and to give After Midnight thirty (30) days written notice to cure such default and to permit After Midnight, at its sole discretion, to assume the Lease for the remainder of the term herein, and to exercise any renewal options. Lessor further agrees that in the event that Lessee's Franchise Agreement should terminate for any reason, upon receipt by Lessor of notice to that effect from After Midnight, Lessor will permit After Midnight to enter the premises and to become the lessee or to designate another successor lessee under the same terms and conditions contained in the Lease. After Midnight will have the option, but not the obligation, to exercise the assumption rights granted to it under this provision of this Addendum. Lessee specifically agrees that Lessor will transfer the Lease to After Midnight or its designee upon After Midnight notice to Lessor of intent to assume the Lease. Lessor further agrees that, in the event that Lessee's Franchise Agreement terminate for any reason, and if After Midnight elects to not assume the Lease, then (i) Lessor will not occupy or permit the occupancy of the location as a western themed restaurant for a period of three (3) years after such termination and (ii) Lessor and Lessee shall not amend or otherwise modify the Lease at any time so as to allow the location to be occupied as a western themed restaurant for a period of three (3) years following such termination. This provision shall survive an early termination of this Agreement.

7. **ESTOPPEL:** Lessor will promptly upon request of After Midnight deliver to Lessee, After Midnight, or such other party as After Midnight may designate: (i) written confirmation (a) that the Lease is in full force and effect without modification or amendment, and (b) that Lessee is not in default under the terms of the Lease, and/or (ii) such other information, documents, confirmations and/or certifications regarding the Lease as may be reasonably requested by After Midnight (or, to the extent that Lessor is unable to comply, identifying with particularity the reasons why compliance with After Midnight's request is not possible). Lessor shall comply with this paragraph of this Addendum at no charge to Lessee or After Midnight.

8. **LIEN WAIVER:** Lessor shall have no lien upon the assets of Lessee. Lessor waives any statutory “landlord’s lien” on the assets of Lessee. Upon request, Lessor will execute and deliver to Lessee or to After Midnight a waiver of lien waiver or other acknowledgment that Lessor has no lien on the assets of Lessee.

9. **REPORT OF SALES:** Lessor is authorized to provide and disclose to After Midnight, upon its request, sales and other information furnished to Lessor by Lessee.

10. **INSPECTION:** Lessor shall permit representatives of After Midnight to enter upon the premises during regular business hours for the purposes of conducting inspections of Lessee’s Restaurant.

11. **NOTICES:** Copies of all notices to be sent to or served upon Lessee shall be also mailed to AMG Franchises LLC, 7575 Golden Valley Rd, STE 340, Golden Valley, MN 55427.

12. **CONFLICT:** If there is any conflict between a provision of the Lease and a provision of this Addendum, then the applicable provision of this Addendum will supersede the conflicting provision in the Lease.

13. **ACKNOWLEDGMENTS:** Lessor hereby acknowledges that the provisions of this Addendum are required pursuant to the Franchise Agreement under which Lessee plans to operate the Restaurant, and Lessee would not lease the Restaurant premises without this Addendum. Lessor further acknowledges that Lessee is not an agent or employee of After Midnight and Lessee has no authority or power to act for, or to create any liability on behalf of, or to in any way bind After Midnight or any affiliate of After Midnight, and that Lessor has entered into this Addendum with full understanding that it creates no duties, obligations or liabilities of or against After Midnight or any affiliate of After Midnight, unless and until the Lease is assumed and accepted in writing by, After Midnight or a designee of After Midnight.

14. **THIRD PARTY BENEFICIARY:** After Midnight is an express third party beneficiary of this Addendum and the Lease and may, directly or indirectly, enforce any right of After Midnight or Lessee hereunder.

15. **MODIFICATIONS:** The provisions of the Lease and/or this Addendum will not be modified, amended, extended, assigned or terminated without the prior written consent of After Midnight.

The parties are signing this Addendum as of the date first above written.

**LESSOR:**

**LESSEE:**

\_\_\_\_\_

\_\_\_\_\_

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

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

Its:\_\_\_\_\_

Its:\_\_\_\_\_

**EXHIBIT D  
ADDENDUM TO  
THE AFTER MIDNIGHT GROUP FRANCHISE AGREEMENT**

**FOR**

**ADDRESS OF FRANCHISED LOCATION:**

\_\_\_\_\_  
Street

\_\_\_\_\_  
City, State, Zip Code

**AND**

**DESIGNATED MARKET AREA:**

The area within a \_\_\_\_\_ mile radius of the Franchised Location  
for Franchisee's Restaurant

Dated: \_\_\_\_\_, 20\_\_\_\_

AMG Franchises LLC

\_\_\_\_\_  
Name of Franchisee

By \_\_\_\_\_

By \_\_\_\_\_

Its \_\_\_\_\_

Its \_\_\_\_\_

**DESCRIPTION OF AREA WHERE FRANCHISEE WILL HAVE THE RIGHT TO LOCATE  
THE RESTAURANT UNTIL THE ADDRESS OF THE FRANCHISED LOCATION HAS BEEN  
DETERMINED:**

\_\_\_\_\_

\_\_\_\_\_

(include if possible the City, County and State)

Dated: \_\_\_\_\_, 20\_\_\_\_

AMG Franchises LLC

\_\_\_\_\_  
Name of Franchisee

By \_\_\_\_\_

By \_\_\_\_\_

Its \_\_\_\_\_

Its \_\_\_\_\_

**AMG FRANCHISES LLC  
FRANCHISE DISCLOSURE DOCUMENT**

**EXHIBIT E**

**AREA DEVELOPMENT AGREEMENT**

AMG Franchises LLC  
Minnesota limited liability company  
7575 Golden Valley Rd, STE 340  
Golden Valley, MN 55427  
(612) 710-9779

## **AREA DEVELOPMENT AGREEMENT**

### **Area Developer**

---

Legal Name

---

Street

---

City, State, Zip Code

---

Telephone Number/Facsimile Number

---

Email Address

---

\_\_\_\_\_, 20\_\_\_\_  
**Date of Area Development  
Agreement**

**AMG Franchises LLC**

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## AMG Franchises LLC

### AREA DEVELOPMENT AGREEMENT

**THIS AREA DEVELOPMENT AGREEMENT** (this “**Agreement**”) is made, entered into and effective this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between AMG Franchises LLC, a Minnesota limited liability company (“**Franchisor**”), and \_\_\_\_\_, a(n) \_\_\_\_ (“**Area Developer**”).

In consideration of the mutual promises and covenants set forth in this Agreement, Franchisor and Area Developer agree as follows:

### **SECTION 1** **INTRODUCTION**

#### **1.1 Cowboy Jack’s System.**

Franchisor has developed a distinctive business for operating and franchising restaurants featuring a variety of Food, Beverages, and Products which are associated with the Marks, copyrights, distinctive interior and exterior building designs, décor, furnishings, menus, uniforms, signs, color combinations, uniformity requirements, standards of consistency and quality, procedures, cleanliness, sanitation, controls, specifications, training, advertising promulgated by Franchisor, all of which are offered in a distinctive, country western themed environment (the “Cowboy Jack’s System”). Franchisor has extensively publicized the names, “Cowboys,” “Cowboy Jacks,” “Cowboy Jacks Saloon,” and “Cowboy Jack’s Saloon and Restaurant” to the public as an organization of restaurant businesses operating under the Cowboy Jack’s System. Franchisor may modify the Cowboy Jack’s System in the exercise of its business judgment and may authorize regional or local variations in the Cowboy Jack’s System, tests of potential new menu items or products, and the introduction of menu items or products in stages over time, all in the exercise of its business judgment to enhance the marketing, consumer acceptance, competitive position, compliance obligations, and other objectives intended to facilitate operations.

#### **1.2 Marks.**

Franchisor has the right and authority to license the use of the name “Cowboy Jack’s” and the other Marks for use in connection with the Cowboy Jack’s System to selected persons, businesses or Entities that will comply with the Franchisor uniformity requirements and quality standards. Franchisor intends, in the exercise of its business judgment, to develop, use and control the use of the Marks in order to identify for the public the source of the Foods, Beverages, and Products and related services marketed under the Cowboy Jack’s System, and to represent to the public the Cowboy Jack’s System’s high standards of quality, appearance, cleanliness and service.

#### **1.3 Area Developer’s Objective.**

Area Developer desires to enter into Franchise Agreements with Franchisor to develop, own and operate Cowboy Jack’s restaurants (the “Cowboy Jack’s Restaurants” or the “Restaurants”) in the territory defined in Section 2.1 of this Agreement in strict conformity with the Cowboy Jack’s System and Franchisor’ uniformity requirements and quality standards, as may be established by Franchisor from time to time. Area Developer understands the importance of the high standards of quality, appearance, procedures, controls, cleanliness and service established by Franchisor, and the necessity of operating the Restaurants in strict conformity with the standards and specifications established by Franchisor.

#### **1.4 Personal Guaranty.**

All Owners of Area Developer who own 20% or more of the Ownership Interests of Area Developer (and, if married, such Owners' spouses), and (b) the Owners of at least 50% of the total Ownership Interests of Area Developer (and, if married, such Owners' spouses), must sign the Personal Guaranty attached to this Agreement.

### **SECTION 2**

#### **GRANT OF DEVELOPMENT RIGHTS; TERRITORY**

#### **2.1 Territory.**

Franchisor hereby grants to Area Developer, for the term of this Agreement, the right to enter into Franchise Agreements with Franchisor for the development and operation of Cowboy Jack's Restaurants to be located within the "Territory" defined as the geographical area described and delineated as follows: \_\_\_\_\_

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The Territory may be further described in a map attached hereto and signed by both Area Developer and Franchisor. This Agreement will not constitute the sale of a Franchise to Area Developer, but rather will give Area Developer the right to enter into Franchise Agreements with Franchisor to own and operate franchised Cowboy Jack's Restaurants in the Territory.

#### **2.2 Limited Exclusivity.**

Franchisor will not Develop any other Cowboy Jack's restaurants within Area Developer's Territory. No other type of exclusivity is intended. Franchisor and its licensees, appointees, designated franchisees and agents have the absolute and exclusive right to advertise, promote, and sell all of the Foods, Beverages, and Products associated with the Cowboy Jack's System at special promotions conducted within or outside of the Territory. Franchisor has the absolute and exclusive right to (i) Develop other restaurant business concepts of any kind under other brand names anywhere, even if the locations for the concepts are within the Territory; and (ii) Develop Cowboy Jack's Restaurants in the Territory if they are located at or within an airport, a train station or other mass transit facility, a theme or entertainment park, a stadium or arena or other venue for semi-professional or professional sports, a military installation, within the boundaries of a school, college, university, or hospital, or at other similar venues that Franchisor determines, in the exercise of its reasonable business judgment, to be entirely or in principal part "captive markets." Franchisor has the absolute and exclusive right to, market, distribute, and sell or license for sale, on a wholesale or retail basis, seasonings, sauces, food products, clothing, or any other products under any of the Marks, by direct sale, the Internet, mail order, infomercials, telemarketing, or by any other marketing or distribution method, even if such sales are made to customers, distributors, or retailers or ultimate consumers who are located in the Territory. Franchisor further reserves the right to own, operate, manage, franchise and/or license other individuals or entities to own, manage and/or operate Competitive Restaurants in Area Developer's Territory if Franchisor or Franchisor's affiliate derived its ownership interests or other rights to such restaurants after the date of this Area Development Agreement as part of an acquisition or purchase of a majority of the ownership interests in, or substantially all of the assets of, another entity.

#### **2.3 Use of Marks.**

Area Developer will have the right to use the Marks only in the Territory and only in connection with the development of Cowboy Jack's Restaurants pursuant to this Agreement. Area Developer will only use the Marks designated by Franchisor in writing and only in the manner authorized and permitted by Franchisor. Area Developer and its Executive Management, Management Staff, employees and agents will not have the right to use any of the Marks or other intellectual property of Franchisor on any social network, social media, or online community on the Internet or any other online, digital or electronic medium including, but not limited to, any "blog," YouTube, Facebook, Instagram, Tik Tok, Wikipedia, professional networks like

Linked-In, live-blogging and micro-blogging tools like X, virtual worlds, file, audio and video sharing sites, and other similar social networking media or tools now or hereafter in existence (“**Online Sites and Social Media**”), except with the prior written permission of Franchisor. Area Developer and its Executive Management, Management Staff, employees and agents will comply with all of Franchisor’s policies, standards and procedures for use of any Online Site and Social Media that in any way references the Marks or involves the Restaurants in the Territory.

#### **2.4 Conditions.**

Area Developer hereby undertakes the obligation to open and operate franchised Cowboy Jack’s Restaurants using the Cowboy Jack’s System in the Territory in strict compliance with the terms and conditions of this Agreement for the entire term of this Agreement. The rights and privileges granted to Area Developer by Franchisor under this Agreement are applicable only in the Territory, are personal in nature, and may not be used elsewhere or in any other area by Area Developer.

#### **2.5 Personal License.**

Area Developer will not have the right to franchise, subfranchise, license or sublicense its rights under this Agreement. Area Developer will not have the right to Assign this Agreement or its rights under this Agreement, except as specifically provided for in this Agreement.

### **SECTION 3**

#### **TERM; RIGHT OF FIRST REFUSAL**

##### **3.1 Term.**

This Agreement will be in effect for a term ending \_\_\_\_\_ (\_\_\_\_) years after the date set forth on Page D-1 of this Agreement, or on the date Area Developer has completed development of the cumulative number of Cowboy Jack’s Restaurants required under the Development Schedule set forth in Section 5.1, whichever is earlier. This Agreement will not be enforceable until it has been signed by both Area Developer and Franchisor. Subject to the provisions of Section 3.2, at the end of the term of this Agreement, Area Developer’s exclusive development rights with respect to the Territory will automatically terminate, and Area Developer will not have the right to renew or extend the term of this Agreement.

##### **3.2 Area Developer’s Right of First Refusal.**

For a period of one year after the term of this Agreement expires according to the provisions of Section 3.1, Area Developer will, subject to the terms and conditions contained in this provision, have the right of first refusal to own and operate Cowboy Jack’s Restaurants in the Territory (as defined by this Agreement), provided that during the entire term of this Agreement, Area Developer, and any subsidiary or affiliate of Area Developer, has complied in all respects with the terms and conditions of this Agreement and the Franchise Agreements for all of the Cowboy Jack’s Restaurants owned by Area Developer and its subsidiaries and affiliates, and has timely paid the Development Fee, Initial Fees, Royalty Fees and other Fees to Franchisor as required by this Agreement and the respective Franchise Agreements with Franchisor. Franchisor will not own, operate or develop or offer any third party the right to own, operate, develop or franchise any Cowboy Jack’s Restaurants in the Territory without first offering the right to Area Developer in a written offer that contains a general summary of the terms and conditions of the proposed transaction, including the Development Fee, the number of Cowboy Jack’s Restaurants to be developed and opened, the Development Schedule, and the Initial Fees, the Royalty Fees and all other Fees payable pursuant to the then-current standard Franchise Agreement. If Area Developer fails to accept the offer contained in the written notice within 30 days after receipt, then Area Developer’s right of first refusal will terminate in all respects and Franchisor will have the right to develop, own, operate or franchise Cowboy Jack’s Restaurants in the Territory in accordance with the terms and conditions of the written offer. If Area Developer accepts the offer contained in the written notice, then Area Developer will have 30 days after the date of acceptance

to sign the new Area Development Agreement and/or the new Franchise Agreement (the “**Required Agreements**”), as the case may be, and to pay all Fees due thereunder to Franchisor. If Area Developer fails to sign the Required Agreements within 30 days after the date of acceptance, then Area Developer’s right of first refusal will terminate in all respects, and Franchisor will have the right to own, operate, develop or franchise Cowboy Jack’s Restaurants in the Territory in accordance with the terms and conditions of the written offer.

## **SECTION 4**

### **FEES PAYABLE TO FRANCHISOR**

#### **4.1     Development Fee.**

On the date this Agreement is executed by Area Developer, Area Developer will pay Franchisor Development Fee equal to 50% of the Initial Fees for each Cowboy Jack’s Restaurant that Area Developer is required to open and operate in the Territory pursuant to the Development Schedule set forth in Section 5.1 of this Agreement. The Development Fee will be nonrefundable and will be fully earned by Franchisor when the Development Fee is paid by Area Developer. The Development Fee is payment to Franchisor for granting Area Developer the rights, as set forth in this Agreement, to develop Cowboy Jack’s Restaurants in the Territory.

#### **4.2     Initial Fees.**

In addition to the Development Fee, Area Developer will, on the day Area Developer signs each Franchise Agreement pursuant to the terms of this Agreement, pay Franchisor the remaining balance of the Initial Fee for each Restaurant that Area Developer is required to open and operate in the Territory pursuant to the Development Schedule set forth in Section 5.1 of this Agreement.

#### **4.3     Execution of Franchise Agreements; Payment of Initial Fees.**

Area Developer will pay Franchisor the remaining balance of the Initial Fee set forth in Section 4.2 of this Agreement on the date Area Developer executes the Franchise Agreement for each Restaurant required to be opened and operated in the Territory pursuant to this Agreement. Area Developer must execute a Franchise Agreement for its first Restaurant and pay the first Initial Fee on the date Area Developer executes this Agreement. Contemporaneous with the execution of the 2nd and subsequent Franchise Agreements signed by the parties in compliance with the Development Schedule, Area Developer and its affiliates will execute a general release, in a form satisfactory to Franchisor, of any and all Claims against Franchisor, its current and former Affiliates and their respective past and present officers, directors, Owners, agents and employees, in their corporate and individual capacities, arising from, in connection with, or as a result of prior or concurrent written agreements, including this Agreement and the prior Franchise Agreement(s) executed in compliance with the Development Schedule. Area Developer will not purchase or lease the property for the proposed site for the Franchised Location until Area Developer has signed a Franchise Agreement with Franchisor and complied with the applicable provisions of the Franchise Agreement relating to the selection of the site for the Franchised Location.

#### **4.4     Royalty Fee.**

During the term of each Franchise Agreement signed by Area Developer pursuant to this Agreement, Area Developer will pay Franchisor a Royalty Fee, as defined in the Franchise Agreement. For each of its Cowboy Jack’s Restaurants, Area Developer will pay the Royalty Fee for the Cowboy Jack’s Restaurants at the rate set forth in each then-current standard Franchise Agreement executed in accordance with the Development Schedule in Section 5.1 and as required by Section 6.2. For each of its Cowboy Jack’s Restaurants, Area Developer will pay the Royalty Fees on the day specified in, and in accordance with the other terms and conditions of, the Franchise Agreement for that Restaurant.

#### **4.5     Marketing Fund Fee; Other Fees.**

During the term of each Franchise Agreement signed by Area Developer pursuant to this Agreement, Area Developer will pay Franchisor the Marketing Fund Fees, as defined in the Franchise Agreement. Area Developer will pay Franchisor the Marketing Fund Fees for the Cowboy Jack's Restaurants at the rate set forth in each then-current standard Franchise Agreement executed in accordance with the Development Schedule in Section 5.1 and as required by Section 6.2. For each of its Cowboy Jack's Restaurants, Area Developer will pay the Marketing Fund Fees on the day specified in, and in accordance with the other terms and conditions of, the Franchise Agreement for that Restaurant. Except as set forth in this Section, Area Developer will pay the Fees, payments and other monetary obligations payable to Franchisor and others at the rates, in the amounts and in the manner specified in the then-current standard Franchise Agreement executed by Franchisor and Area Developer for each Restaurant in the Territory.

### **SECTION 5** **DEVELOPMENT SCHEDULE**

#### **5.1     Development Schedule.**

Area Developer acknowledges and agrees that the following Development Schedule is a material provision of this Agreement:

<b>Restaurant Number</b>	<b>Date by Which Franchise Agreement Must be Signed</b>	<b>Date by Which Cowboy Jack's Restaurant Must be Opened and Continuously Operating in Territory</b>	<b>Cumulative Number of Cowboy Jack's Restaurants Required to be Open and Continuously Operating in Territory as of Date in Preceding Column</b>
1	Date of this Agreement		1
2			2

For purposes of determining compliance with the Development Schedule set forth in this Section, only Area Developer's Restaurants actually open and continuously operating in the Territory as of a given date will be counted toward the number of Cowboy Jack's Restaurants required to be open and continuously operating. Notwithstanding any provision in the Franchise Agreement to the contrary, Area Developer will be required to open the Cowboy Jack's Restaurants developed by Area Developer under this Agreement according to the development dates set forth above in the Development Schedule, and the Franchise Agreement for each of Area Developer's Restaurants will be deemed to be amended accordingly.

## **5.2 Reasonableness of Development Schedule.**

Area Developer represents that it has conducted its own independent investigation and analysis of the prospects for the establishment of Cowboy Jack's Restaurants within the Territory, and approves of the Development Schedule as being reasonable and viable.

## **5.3 Extension of Development Schedule.**

Area Developer's failure to comply with the Development Schedule will constitute a material breach of this Agreement by Area Developer. If Area Developer will not be able to meet the Development Schedule, Area Developer may request one 60-day extension for each Restaurant to be developed under the Development Schedule, for a period no greater than 60 days, by giving written notice to Franchisor before the original opening date that, describes and certifies to the legitimate reasons for the delay. Area Developer must submit such written notice no less than 45 days prior to the original opening date circumstances qualifying for an extension. No rights to any further extensions are contemplated by Franchisor or Area Developer. In the event that Franchisor decides to grant Area Developer's request for an extension, such extension will be based on Franchisor's sole judgment and on such terms and conditions as Franchisor may then determine and shall be expressed in a written extension signed by both Franchisor and Area Developer. No rights to any further extensions are contemplated by Franchisor or Area Developer. Failure to Comply with Development Schedule.

If Area Developer at any time during the term of this Agreement is not in compliance with the Development Schedule (i.e., does not have the required number of Cowboy Jack's Restaurants open and operating in the Territory as of the dates specified in Section 5.1 and has not given Franchisor written notice of an extension in accordance with the preceding provision), then Franchisor will have the right to terminate this Agreement immediately upon written notice to Area Developer. Termination of this Agreement as a result of Area Developer's failure to meet the Development Schedule will not affect the individual Franchise Agreements for the Cowboy Jack's Restaurants opened and operated in the Territory pursuant to this Agreement which were signed by the parties prior to termination of this Agreement; however, upon termination of this Agreement, all rights to open and operate additional Cowboy Jack's Restaurants in the Territory and all other rights granted to Area Developer under this Agreement will immediately revert to Franchisor, without affecting those obligations of Area Developer that continue beyond the termination of this Agreement.

## **5.4 Termination for Failure to Comply with Development Schedule.**

If this Agreement is terminated by Franchisor because of Area Developer's failure to meet the Development Schedule, the rights and duties of Franchisor and Area Developer will be as follows: (a) Area Developer will have no rights to open additional Cowboy Jack's Restaurants within the Territory; (b) Area Developer will continue to pay all required Fees and to operate its Restaurants opened in the Territory pursuant to the terms of the applicable Franchise Agreements signed by Area Developer prior to the date of the termination of this Agreement, and will in all other respects continue to comply with such Franchise Agreements; (c) Franchisor will have the absolute right to Develop Cowboy Jack's Restaurants in the Territory or to contract with other persons for the development of additional Restaurants in the Territory; (d) Area Developer will have no right to obtain a refund of any monies it paid to Franchisor pursuant to this Agreement or the Franchise Agreements; and (e) Area Developer and Franchisor will not have any rights or obligations with respect to the Franchise Agreements required to be signed pursuant to the Development Schedule in Section 5.1, but which were not executed prior to the termination of this Agreement by Franchisor because of Area Developer's failure to comply with the Development Schedule.

## **SECTION 6**

### **OTHER OBLIGATIONS OF AREA DEVELOPER**

#### **6.1 Compliance with Applicable Laws.**

Area Developer will, at its expense, comply with all applicable federal, state, city, local and municipal laws, ordinances, rules and regulations pertaining to the operation of Area Developer's Restaurants in the Territory. Area Developer will, at its expense, be absolutely and exclusively responsible for determining the licenses and permits required by law for Area Developer's Restaurants, for qualifying for, and obtaining and maintaining, all such licenses and permits, and for compliance with all applicable laws by its employees, agents and independent contractors. Notwithstanding any rights or obligations set forth herein, no part of this Agreement shall be read to require Area Developer to engage in acts or practices that violate any law.

#### **6.2 Execution of Franchise Agreements.**

Subject to the provisions set forth in Sections 4.2 and 4.4 of this Agreement, for each Cowboy Jack's Restaurant that will be opened, owned and operated by Area Developer in the Territory pursuant to this Agreement, Area Developer or an Entity in which (a) Area Developer is the Owner of at least 50.1% of the Ownership Interests in the Entity or (b) Area Developer's Owners are the Owners of at least 50.1% of the Ownership Interests in the Entity (the "**Controlled Entity**") must execute Franchisor's then-current standard Franchise Agreement and comply with the other requirements of this Agreement. The failure of Area Developer or the Controlled Entity to provide Franchisor with an executed Franchise Agreement within the time specified in Sections 4.3 and 5.1 will constitute a material breach of this Agreement, and Franchisor will have the right to terminate this Agreement as provided for herein. If the Franchise Agreement required to be executed pursuant to this Section (and the other provisions of this Agreement) will be executed by the Controlled Entity, then: (i) Area Developer (or Area Developer's Owners) will, at all times during the term of the Franchise Agreement, be required to maintain at least a 50.1% Ownership Interest in the Controlled Entity and (ii) Area Developer will not be relieved from complying with the terms, conditions and obligations under this Agreement including, without limitation, Area Developer's obligations contained in Sections 4, 5, 6, 7, 9, 11, 12 and 13 of this Agreement. If Area Developer elects to have a Controlled Entity execute the Franchise Agreement for any Cowboy Jack's Restaurant being developed under this Agreement, then all terms, conditions and obligations under this Agreement relating to compliance with the Franchise Agreement for that Restaurant will be the obligation of the Controlled Entity, and not Area Developer.

#### **6.3 Local Advertising; Other Payments.**

During the term of each Franchise Agreement signed by Area Developer pursuant to this Agreement, Area Developer will be required to spend monies for items such as advertising and promotion, approved Local Advertising, and other related expenses. Area Developer will pay all such required promotional and advertising expenses at the rates established in, and in accordance with the terms and conditions of, the applicable Franchise Agreements for each of Area Developer's Restaurants in the Territory.

#### **6.4 Modifications to Franchise Agreement.**

Area Developer acknowledges that (a) the terms, conditions and economics of the Franchise Agreement may be modified from time to time by Franchisor, (b) reasonable modifications and amendments to the Franchise Agreement will not alter Area Developer's obligations under this Agreement, (c) any changes or modifications made to the Franchise Agreement in the future will not be applicable to any Franchise Agreement previously executed by Area Developer, (d) any Franchise Agreement signed by Area Developer pursuant to this Agreement will require Area Developer to pay the Initial Fee set forth in Section 4.2, regardless of whether these Fees have increased in the future, and (e) Area Developer will be required

to pay any additional Fees contained in any Franchise Agreement signed by Area Developer after the date of this Agreement.

**6.5 Area Developer's Name.**

Area Developer will not use any of the Marks, any derivative of the marks, or the name "Franchisor" or any derivative or confusingly similar word or phrase in the name of any Entity formed by Area Developer or any affiliate of Area Developer. Area Developer will at all times hold itself out to the public as an independent contractor operating its Restaurants pursuant to Franchise Agreements with Franchisor. Area Developer will file for a certificate of assumed name in the manner required by applicable state law to notify the public that Area Developer is operating its Restaurants as an independent contractor.

**6.6 Interests of Operating Company.**

Area Developer's operating company will be dedicated solely to the development and operation of Area Developer's Restaurants in the Territory and will not hold any interest in, operate, or manage any other business of any kind without the prior written approval of Franchisor.

**6.7 Opening Assistance.**

Franchisor will be responsible for complying with all opening assistance requirements for each Restaurant pursuant to the applicable Franchise Agreement.

**SECTION 7  
ASSIGNMENT**

**7.1 Assignment of Agreement by Franchisor.**

This Agreement (and any interests herein) may be unilaterally Assigned by Franchisor to a person or Entity without the approval of Area Developer and, upon assignment, will inure to the benefit of the successors and assigns of Franchisor. Franchisor will provide Area Developer with written notice after the Assignment has been completed. Any assignee will be required to fully perform all obligations of Franchisor under this Agreement.

**7.2 Assignment of Agreement to Beneficiary or Entity.**

If Area Developer is an individual and has personally signed this Agreement, then in the event of the death or permanent disability of Area Developer, this Agreement may be Assigned to any designated person or beneficiary (the "**Beneficiary**") without the payment of any Assignment Fee and without complying with Section 10. However, the Assignment of this Agreement to Area Developer's Beneficiary will be subject to the applicable provisions of Section 7.3(b) - (h) and will not be valid or effective until Franchisor has received the properly executed legal documents which its attorneys deem necessary to document the Assignment of this Agreement to the Beneficiary. The Beneficiary must agree to be unconditionally bound by the terms and conditions of this Agreement and must successfully complete the Training Program. There will be no charge to the Beneficiary for attending the Training Program; however, the Salary and Benefits and the Travel Expenses of the Beneficiary will be paid by the Beneficiary. In addition, this Agreement may be Assigned by Area Developer to an Entity without the payment of an Assignment Fee and without complying with Section 10 if Area Developer is an individual or a general partnership, provided that the Owner or Owners of the Entity are the same person or persons who signed this Agreement.

**7.3 Assignment by Area Developer.**

Subject to the provisions of Section 10, Area Developer will not Assign any interest in or any part of this Agreement to any person or Entity without the prior written approval of Franchisor. Franchisor will not withhold its written consent to any Assignment of this Agreement if the Assignment does not violate any of the terms of this Agreement, if Franchisor does not exercise its rights under Section 10 of this Agreement,



and if Area Developer and/or the assignee Area Developer are in full compliance with the following terms and conditions:

- (a) Area Developer has provided written notice to Franchisor of the proposed Assignment of this Agreement at least 45 days prior to the transaction;
- (b) all of Area Developer's monetary obligations due to Franchisor have been paid in full, and Area Developer is not otherwise in default under this Agreement;
- (c) Area Developer has agreed in writing to observe all applicable provisions of this Agreement, including the covenants not to compete contained in this Agreement;
- (d) Franchisor and Area Developer have executed a joint and mutual release, in a form satisfactory to Franchisor, of any and all Claims against Franchisor and/or Area Developer and their respective Executive Management, Owners, agents and employees, in their corporate and individual capacities, arising from, in connection with, or as a result of this Agreement including, without limitation, all Claims arising under any federal or state franchising laws or any other federal, state or local law, rule or ordinance; provided, however, that Franchisor and Area Developer may specifically exclude from the coverage of the release any prior or concurrent written agreements or Franchise Agreements between them for other Cowboy Jack's Restaurants owned by Area Developer;
- (e) the assignee Area Developer has demonstrated to the satisfaction of Franchisor that he, she or it meets the managerial, financial and business standards required by Franchisor for new area developers, possesses a good business reputation and credit rating, and its Executive Management possesses the aptitude and ability to operate the Cowboy Jack's Restaurants in the Territory in an economic and businesslike manner (as may be evidenced by prior related business experience or otherwise);
- (f) the assignee Area Developer and the assignee Area Developer's Owners execute the legal agreements required by Franchisor or its legal counsel to document the Assignment of this Agreement to the assignee Area Developer;
- (g) the assignee Area Developer and its Management Staff, as defined in the Franchise Agreement, have successfully completed the initial training program then prescribed by Franchisor; and
- (h) any purchase and sale agreement between Area Developer and the assignee Area Developer (or other transferor and transferee) shall provide for and require that the Cowboy Jack's Restaurants in the Territory shall continue to operate without interruption during the transfer.

If a proposed assignment would result in a change in control of Area Developer, the Franchise, or any of Area Developer's assets, including any Restaurants owned, operated, or controlled by the Area Developer, and such change in control would result in the transferee-area developer and its affiliates collectively, either directly or indirectly, owning more than five (5) Restaurants, including the Restaurant being transferred, then Franchisor may, at its sole discretion, withhold its written consent to the transfer and such withholding will not be considered unreasonable. Franchisor may expand upon, and provide more details related to, the conditions for transfer and Franchisor's consent as described in this Section 7.3, and may do so in the Operations Manual or otherwise in writing

#### **7.4 Assignment of Ownership Interest.**

No Owner will have the right to Assign an Ownership Interest in Area Developer without the prior written approval of Franchisor. Franchisor will not withhold its written consent if the Assignment of the Ownership Interest by the Owner complies in all respects with the terms of this Agreement, and if Franchisor does not exercise its right of first refusal to acquire the Ownership Interest in Area Developer pursuant to Section 10.7.

#### **7.5 Acknowledgment of Restrictions.**

Area Developer and Owners acknowledge and agree that the restrictions on Assignment imposed herein are reasonable and necessary to protect the Cowboy Jack's System and the Marks, as well as the reputation and image of Franchisor, and are for the protection of Franchisor, Area Developer and all other area developers and franchisees that own and operate Cowboy Jack's Restaurants. Any Assignment permitted by this Section will not be effective until Franchisor receives a completely executed copy of all Assignment documents and Franchisor consents to the Assignment in writing. Any attempted Assignment made without complying with the requirements of this Section will be void.

#### **7.6 Assignment Fee.**

If this Agreement is Assigned to another person or Entity, or if any of the Owners transfer any Ownership Interest in Area Developer to a third party, then Area Developer will pay Franchisor, on or before the date of the Assignment, an Assignment Fee of \$5,000. The Assignment Fee is to cover the costs incurred by Franchisor in connection with the Assignment. Franchisor also reserves the right to charge the assignee Area Developer its Per Diem Training Fee to cover the costs to provide the initial training program to the assignee Area Developer and its Management Staff. The assignee Area Developer will also be responsible for the Salaries and Benefits, Travel Expenses and other expenses incurred by all personnel attending the initial training program on behalf of the assignee Area Developer.

#### **7.7 Assignment to Competitor Prohibited.**

Area Developer and the Owners will not Assign this Agreement or their Ownership Interests in Area Developer to any person or Entity that owns, operates, franchises, develops, consults with, manages, is involved in, or controls any Competitive Restaurant. If Franchisor refuses to permit an Assignment of this Agreement under this provision, then Area Developer's and the Owners' only remedy will be to have a mediator or arbitrator determine whether the proposed assignee owns or operates a Competitive Restaurant.

### **SECTION 8** **TERMINATION RIGHTS OF FRANCHISOR**

#### **8.1 Conditions of Breach.**

In addition to its other rights of termination contained in this Agreement, Franchisor will have the right to terminate this Agreement if:

- (a) Area Developer fails to comply with the Development Schedule set forth in Section 5.1;
- (b) Area Developer voluntarily or otherwise Abandons any of Area Developer's Restaurants;
- (c) Area Developer materially violates any federal, state or municipal law, rule, code or regulation applicable to the operations of Area Developer's Restaurants, including a violation of any health department rules or regulations relating to any food safety standards that would in any way endanger the health or well-being of any of the customers or guests of Area Developer's Restaurants;

- (d) Area Developer breaches any material provision, term or condition of this Agreement;
- (e) Area Developer or any of its Executive Management or Owners are convicted of, or pleads guilty to a violation of any law that has a material adverse effect on the operations of Area Developer's Restaurants or a crime involving moral turpitude, dishonesty or fraud;
- (f) Area Developer fails to timely pay any of its uncontested obligations or liabilities (where there is no reasonable commercial dispute) due and owing to Franchisor, suppliers, banks, purveyors, other creditors or to any federal, state or municipal government;
- (g) Area Developer is determined to be insolvent within the meaning of applicable state or federal law, any involuntary petition for bankruptcy is filed against Area Developer, or Area Developer files for bankruptcy or is adjudicated a bankrupt under applicable state or federal law;
- (h) Area Developer makes an assignment for the benefit of creditors or enters into any similar arrangement for the disposition of its assets for the benefit of creditors;
- (i) any check issued by Area Developer is dishonored because of insufficient funds (except where the check is dishonored because of bank error or an error in bookkeeping or accounting) or closed accounts;
- (j) Area Developer is involved in any act or conduct which materially impairs the goodwill associated with "Cowboy Jack's," any other of the Marks or the Cowboy Jack's System;
- (k) Area Developer, an affiliated Entity or an Owner breaches any Franchise Agreement or any other agreement between such person or Entity and Franchisor or an Affiliate; or
- (l) any Franchise Agreement between Area Developer (or a Controlled Entity) and Franchisor is terminated by either party for any reason.

## **8.2 Notice of Breach.**

Except as provided in Sections 8.4 and 8.5 of this Agreement, Franchisor will not have the right to terminate this Agreement until: (a) written notice setting forth the alleged breach in detail has been delivered to Area Developer by Franchisor; and (b) after receiving the written notice, Area Developer fails to correct the alleged breach within the period of time specified by applicable law. If applicable law does not specify a time period to correct an alleged breach, then Area Developer will have 30 days after receipt of the written notice to correct the alleged breach, except where the written notice states that Area Developer is delinquent in the payment of any Fees, rents or other monetary obligations payable to Franchisor or an Affiliate pursuant to this Agreement or any other agreement, in which case Area Developer will have 15 days after receipt of written notice to correct the breach by making full payment to Franchisor, together with interest on the past-due obligations at the rate of 18% per annum and the applicable Administrative Fees. If Area Developer fails to correct the alleged breach set forth in the written notice within the applicable period of time, then this Agreement may be terminated by Franchisor as provided for herein. For the purposes of this Agreement, an alleged breach of this Agreement by Area Developer will be deemed to be "corrected" if both Franchisor and Area Developer agree in writing that the alleged breach has been corrected.

## **8.3 Notice of Termination.**

Except as provided in Sections 8.4 and 8.5 of this Agreement, if Franchisor has complied with the provisions of Section 8.2 and Area Developer has not corrected the alleged breach set forth in the written notice of breach within the applicable time period specified in this Agreement, then Franchisor will have the absolute

right to terminate this Agreement by giving Area Developer written notice of termination and, in that event, the effective date of termination of this Agreement will be the day the written notice of termination is received by Area Developer.

#### **8.4 Immediate Termination Rights of Franchisor.**

Notwithstanding Section 8.2, Franchisor will have the absolute right, unless precluded by applicable law, to immediately terminate this Agreement if:

- (a) Area Developer fails to comply with the Development Schedule set forth in Section 5.1;
- (b) Area Developer voluntarily or otherwise Abandons any of Area Developer's Restaurants;
- (c) Area Developer or any of its Executive Management or Owners are convicted of, or plead guilty to or no contest to a charge of violating any law, and such conviction or plea could have a material adverse effect on Area Developer's right or ability to operate the Restaurants or could have a material adverse effect on the Marks;
- (d) Area Developer is deemed insolvent within the meaning of applicable state or federal law, any involuntary petition for bankruptcy is filed against Area Developer and Area Developer is unable, within a period of 60 days from such filing, to obtain the dismissal of the involuntary petition, or Area Developer files for bankruptcy or is adjudicated a bankrupt under applicable state or federal law;
- (e) Area Developer makes an assignment for the benefit of creditors or enters into any similar arrangement for the disposition of its assets for the benefit of creditors;
- (f) Area Developer is involved in any act or conduct which materially impairs the goodwill associated with "Cowboy Jack's," any other of the Marks or with the Cowboy Jack's System and Area Developer fails to correct the breach within 24 hours after receipt of written notice of the breach from Franchisor; or
- (g) any Franchise Agreement between Area Developer (or a Controlled Entity) and Franchisor is terminated by either party for any reason.

#### **8.5 Notice of Immediate Termination.**

Except as provided below, if this Agreement is terminated by Franchisor pursuant to Section 8.4 above, then Franchisor will give Area Developer written notice by personal service or prepaid registered or certified mail that this Agreement is terminated and in that event, the effective date of termination of this Agreement will be the day the written notice of termination is received by Area Developer. If notice of termination is given to Area Developer by Franchisor pursuant to Section 8.4(f), then this Agreement will terminate on the first minute of the 25th hour after receipt of the written notice of termination if Area Developer fails to correct the alleged breach within 24 hours after receiving the written notice of termination.

#### **8.6 Other Remedies.**

Nothing in this Section will preclude Franchisor from seeking other remedies or Damages under any state or federal law, common law, or under this Agreement against Area Developer including, but not limited to, attorneys' fees, and injunctive relief. If this Agreement is terminated by Franchisor pursuant to this Section, or if Area Developer breaches or violates this Agreement by a wrongful termination or a termination that is not in strict compliance with the terms and conditions of this Agreement, then Franchisor will be entitled

to seek recovery of all the Damages that Franchisor has sustained and will sustain in the future as a result of Area Developer's breach of this Agreement. Notwithstanding anything to the contrary in this Agreement, the only remedy available to Franchisor if Area Developer fails to meet the Development Schedule will be to terminate this Agreement in accordance with Section 5.4 of this Agreement. The foregoing will not limit Franchisor's rights under any Franchise Agreements between Franchisor and Area Developer.

## **SECTION 9**

### **OBLIGATIONS UPON TERMINATION OR EXPIRATION**

#### **9.1 Obligations upon Termination; Reversion of Rights.**

Upon termination of this Agreement for any reason, all rights to open and operate additional Cowboy Jack's Restaurants in the Territory and all other rights granted to Area Developer pursuant to this Agreement will automatically revert to Franchisor, and Franchisor will have the right to develop the Territory or to contract with another area developer for the future development of the Territory. In addition, Area Developer will comply with all other applicable provisions of this Agreement, including those provisions with obligations that continue beyond the termination of this Agreement.

#### **9.2 Franchise Agreements Not Affected.**

Area Developer will continue to operate the Cowboy Jack's Restaurants owned by Area Developer in the Territory pursuant to the terms of the applicable Franchise Agreements signed by Area Developer and Franchisor prior to the termination of this Agreement, and the rights and obligations of Area Developer and Franchisor with respect to Area Developer's Restaurants in the Territory will be governed by the terms of the applicable Franchise Agreements.

#### **9.3 Continuation of Obligations.**

The indemnities and covenants contained in this Agreement will continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

## **SECTION 10**

### **OPTION OF FRANCHISOR TO PURCHASE**

#### **10.1 Terms of Option.**

Area Developer will not Assign or otherwise dispose of any interest in or any part of (i) Area Developer's interest in this Agreement, including the right of Area Developer to develop Cowboy Jack's Restaurants in the Territory, or (ii) any Ownership Interest in Area Developer (the "**Major Assets**") to any purchaser without first offering the Major Assets to Franchisor in a written offer that contains the purchase price, payment terms, all material terms and conditions of the proposed transaction with the third party, including price and payment terms (the "**Area Developer's Offer**"). Franchisor will have 21 days after receipt of Area Developer's Offer to give Area Developer written notice which will either waive its option to purchase ("**Waiver Notice**") or will state that it intends to exercise its rights to purchase or acquire the Major Assets according to the terms contained in Area Developer's Offer ("**Letter of Intent**").

#### **10.2 Due Diligence Review.**

If Franchisor provides Area Developer with a Letter of Intent within 21 days after receipt of Area Developer's Offer, then Franchisor will have 60 days from the date the Letter of Intent is received by Area Developer (the "**Notice Date**") to conduct a "due diligence" review. Area Developer will promptly provide Franchisor with all Financial Information, Financial Records, and other information requested by Franchisor or its accountants to conduct its "due diligence" review. Franchisor will have the absolute and unconditional right to terminate the Letter of Intent and any obligation to purchase the Major Assets from

Area Developer for any reason and at any time during the 60-day “due diligence” review period by giving Area Developer written notice.

### **10.3 Good Faith Negotiations.**

Unless Franchisor terminates its Letter of Intent as provided in Section 10.2, then Area Developer and Franchisor will act in good faith to agree on the terms and conditions of the definitive agreement or agreements for the purchase of the Major Assets (other than those objective terms and conditions contained in Area Developer’s Offer) and the closing date for the sale of the Major Assets to Franchisor will take place at the offices of Franchisor within 90 days after the Notice Date.

### **10.4 Sale to Purchaser.**

Area Developer will have the right to complete the transaction for the sale of the Major Assets to a purchaser according to the terms and conditions contained in Area Developer’s Offer to Franchisor, if (a) Franchisor delivers a Waiver Notice to Area Developer, (b) Franchisor fails to deliver either a Waiver Notice or the Letter of Intent to Area Developer within 21 days after receiving Area Developer’s Offer, (c) Franchisor terminates its Letter of Intent during the due diligence period pursuant to the provisions of Section 10.2, or (d) Area Developer and Franchisor fail to agree on the terms and conditions for the definitive agreement or agreements for the purchase of the Major Assets by Franchisor from Area Developer (other than those terms and conditions contained in Area Developer’s Offer) on or before the 60th day after the Notice Date.

### **10.5 Negotiated Changes with Purchaser.**

If Franchisor does not purchase the Major Assets from Area Developer under the terms and conditions contained in Area Developer’s Offer, then, if during any negotiations with a purchaser, Area Developer agrees to negotiate, change, delete, or modify any of the terms and conditions contained in Area Developer’s Offer or the terms and conditions contained in the most recent version of the definitive agreement or agreements proposed by Area Developer during negotiations that were not acceptable to Franchisor, then Area Developer will be required to re-offer to sell the Major Assets to Franchisor under the new terms and conditions offered to the purchaser in accordance with the provisions of this Section.

### **10.6 Compliance with Agreement.**

Area Developer’s obligations under this Agreement will in no way be affected or changed because of non-acceptance by Franchisor of Area Developer’s Offer, and as a consequence, the terms and conditions of this Agreement will remain in full force and effect. The decision by Franchisor not to exercise the option to purchase granted to it pursuant to this Section will not, in any way, be deemed to grant Area Developer the right to terminate this Agreement and will not affect the term of this Agreement. Moreover, if Franchisor does not exercise the option to purchase granted to it pursuant to this Section and if Area Developer sells or otherwise disposes of its Major Assets to a party, then both Area Developer and the purchaser will be required to comply in all respects with the terms and conditions of this Agreement. Any Assignment of Area Developer’s Restaurants that does not include an Assignment of this Agreement to the assignee will constitute a wrongful termination of this Agreement by Area Developer.

### **10.7 Assignment of Ownership Interest.**

The Ownership Interests owned by Area Developer or by the Owners of Area Developer may not be Assigned or otherwise disposed of by Area Developer or the Owners until the Ownership Interests have first been offered to Franchisor in writing. If Area Developer or the Owners desire to Assign their Ownership Interests, then they will first offer the Ownership Interests in Area Developer to Franchisor in writing under the same terms and conditions as being offered to any party. Franchisor will have 30 days within which to accept any offer to purchase the Owner’s Ownership Interest in Area Developer. The Owner will be required to comply with the provisions of Section 7.4 if Franchisor does not exercise its right to purchase the Owner’s Ownership Interest.

#### **10.8 Acknowledgment of Restrictions.**

Area Developer and the Owners acknowledge and agree that the restrictions on Assignment imposed herein are reasonable and are necessary to protect the Cowboy Jack's System and the Marks, as well as the reputation and image of Franchisor, and are for the protection of Franchisor, Area Developer and all other area developers and Area Developers who develop, own and operate Cowboy Jack's Restaurants. Any Assignment permitted by this Agreement will not be effective until Franchisor receives a completely executed copy of all Assignment documents and Franchisor consents to the Assignment in writing.

#### **10.9 Bankruptcy Issues.**

If Area Developer or any person or Entity holding any Ownership Interests (direct or indirect) in Area Developer becomes a debtor in a proceeding under the U.S. Bankruptcy Code or any similar law in the U.S. or elsewhere, it is the parties' understanding and agreement that any Assignment of Area Developer's obligations and/or rights hereunder, any material assets of Area Developer, or any indirect or direct interest in Area Developer will be subject to all of the provisions of this Section.

### **SECTION 11**

#### **AREA DEVELOPER'S COVENANTS NOT TO COMPETE**

#### **11.1 Consideration.**

Area Developer and the Owners acknowledge that Area Developer, its Owners, Executive Management and employees will receive specialized training, marketing and advertising plans, business strategies, confidential recipe, cooking and food preparation information, and trade secrets from Franchisor pertaining to the Cowboy Jack's System and the operation of the Cowboy Jack's Restaurants. In consideration for this information, Area Developer and the Owners will comply in all respects with the provisions of this Section. Franchisor has advised Area Developer that this provision is a material provision of this Agreement, and that Franchisor will not enter into a franchise agreement with any person or Entity that owns or intends to own, operate or be involved in any Competitive Restaurant; however, Franchisor may, under certain circumstances, exclude from the coverage of Sections 11.2 and 11.3 existing operational restaurant(s) owned and operated by Area Developer on the date of this Agreement, and Area Developer may, with the express written consent of Franchisor, continue to own and operate such restaurants during the term of this Agreement and thereafter. Area Developer warrants and represents that it does not, except as disclosed to and approved by Franchisor pursuant to this Section 11.1, own, operate, or have any involvement with or interest in any Competitive Restaurant.

#### **11.2 In-Term Covenant Not to Compete.**

Area Developer and the Owners will not, during the term of this Agreement, on their own account or as an employee, principal, agent, area developer, independent contractor, consultant, affiliate, licensee, partner, officer, director, shareholder, member, manager, governor or Owner of any other person or Entity, own, operate, lease, franchise, conduct, engage in, be connected with, have any interest in, or assist any person or Entity engaged in any Competitive Restaurant, except with the prior written consent of Franchisor.

#### **11.3 Post-Term Covenant Not to Compete.**

Except as provided to the contrary in Section 11.1, for a period of 24 months after the termination or expiration of this Agreement, Area Developer and its Owners will not: (a) on their own account or as an employee, principal, agent, area developer, independent contractor, consultant, affiliate, licensee, partner, officer, director, shareholder, member, manager, governor or Owner of any other person or Entity (directly or indirectly, including through a spouse, parent, or child), own, operate, lease, franchise, conduct, engage in, be connected with, have any interest in or assist any person or Entity engaged in any Competitive Restaurant which is located within the Territory, within 10 miles of the Territory, within 10 miles of any Cowboy Jack's Restaurant, or within any exclusive area or territory granted by Franchisor pursuant to an

Area Development Agreement or other territorial agreement; or (b) convert any Restaurant developed by Area Developer pursuant to this Agreement to a Competitive Restaurant. Area Developer and the Owners expressly agree that the time and geographical limitations set forth in this provision are reasonable and necessary to protect Franchisor and its area developers and Area Developers if this Agreement expires or is terminated by either party for any reason, and that this covenant not to compete is necessary to permit Franchisor the opportunity to resell and/or develop new Cowboy Jack's Restaurants within or near the Territory. Area Developer agrees that the length of time in this Section 11.3 will be tolled for any period during which Area Developer is in breach of the covenants set forth in this Section 11.3 or any other period during which Franchisor seeks to enforce this Agreement.

#### **11.4 Ownership of Public Companies.**

Notwithstanding the provisions of Sections 11.2 and 11.3, Area Developer and the Owners will have the right to own up to 1% of any publicly held company or mutual fund that owns, operates, has an interest in, or controls any Competitive Restaurant business, provided that such company has a class of securities that is publicly traded on a national exchange or quotation system and is subject to the reporting requirements of the Securities Exchange Act of 1934, as amended.

#### **11.5 Injunctive Relief.**

Area Developer and the Owners agree that the provisions of this Section are necessary to protect the legitimate business interest of Franchisor and its area developers and Area Developers including, without limitation, preventing the unauthorized dissemination of marketing, promotional and other Confidential Information to competitors of Franchisor and its area developers and Area Developers, protecting recipes, cooking and food preparation techniques and other trade secrets, protecting the integrity of the franchise system, preventing duplication of the Cowboy Jack's System by unauthorized third parties, preventing damage to and/or loss of goodwill associated with the Marks and protecting Franchisor's intellectual property rights. Area Developer and the Owners also agree that damages alone cannot adequately compensate Franchisor if there is a breach of this Section by Area Developer or the Owners, and that injunctive relief against Area Developer is essential for the protection of Franchisor and its area developers and Area Developers. Area Developer and the Owners agree therefore, that if Franchisor alleges that Area Developer or the Owners have breached this Section, then Franchisor will have the right to petition a court of competent jurisdiction for injunctive relief against Area Developer and the Owners, in addition to all other remedies that may be available to Franchisor. Franchisor will not be required to post a bond or other security for any injunctive proceeding. If Franchisor is granted ex parte injunctive relief against Area Developer or the Owners, then Area Developer or the Owners will have the right to petition the court for a hearing on the merits at the earliest time convenient to the court.

#### **11.6 Effect on Other Agreements.**

The covenants not to compete set forth in this Article will apply and be enforced independently of any covenant not to compete set forth in any other agreements between Franchisor and Area Developer (or a Controlled Entity) and/or the Owners.

## **SECTION 12 INDEPENDENT CONTRACTORS**

#### **12.1 Independent Contractors.**

Franchisor and Area Developer are each independent contractors and, as a consequence, there is no employer-employee or principal-agent relationship between Franchisor and Area Developer. Area Developer will not have the right to and will not make any agreements, representations or warranties in the name of or on behalf of Franchisor or represent that their relationship is other than that of franchisor and Area Developer pursuant to Franchise Agreements. Neither Franchisor nor Area Developer will be



obligated by or have any liability to the other under any agreements or representations made by the other to any third parties.

### **12.2 Operation of Cowboy Jack's Restaurants.**

Area Developer will be totally and solely responsible for the development and daily management and operation of its Cowboy Jack's Restaurants in the Territory, and will control, supervise and manage all the employees, agents and independent contractors who work for or with Area Developer, including the right to hire and fire its employees. Area Developer will be responsible for the acts of its employees, agents and independent contractors, and will take all reasonable business actions necessary to ensure that its employees, agents and independent contractors comply with all federal, state and local laws, rules and regulations including, but not limited to, all discrimination laws, sexual harassment laws and laws relating to the disabled. Franchisor will not have any right, obligation or responsibility to hire, control, supervise, manage or fire Area Developer's employees, agents or independent contractors, and will no way be involved in the day-to-day operations of Area Developer's Restaurants. Area Developer will be solely responsible for all employment decisions and functions of the Restaurants including, without limitation, those related to hiring, firing, training, compliance with wage and hour requirements, personnel policies, benefits, recordkeeping, scheduling, supervision, and discipline of employees, regardless of whether Area Developer receives information from Franchisor on these subjects. Area Developer acknowledges and agrees that all personnel decisions will be made by Area Developer, without any influence or advice from Franchisor, and such decisions and actions shall not be, nor be deemed to be, a decision or action of Franchisor. Neither Area Developer nor any employee of Area Developer will be considered an employee of Franchisor under any circumstances. To the extent that any legal authority determines that Franchisor has a duty to act or not act with respect to any of Area Developer's employees, Franchisor hereby assigns to Area Developer any such duty, and Area Developer hereby accepts such assignment.

## **SECTION 13** **INDEMNIFICATION**

### **13.1 Indemnification.**

Except as provided for in a Franchise Agreement relating to the timely tender of defense to Franchisor of an action based solely on the use of the Marks and Cowboy Jack's System, the Area Developer will indemnify and hold harmless Franchisor and its current and former Affiliates and their past and present employees, shareholders, members, Owners, attorneys, accountants and agents (individually and collectively, the "**Indemnified Parties**") against, and will reimburse the Indemnified Parties for, all Damages that the Indemnified Parties incur in the defense of or as a result of any Claim brought against the Indemnified Parties arising from, as a result of, in connection with or out of this Agreement, the relationship between Franchisor and Area Developer, the operation of the Area Developer's Restaurants, and/or the Area Developer's or the Area Developer's employees' actions or inaction. The Area Developer will indemnify the Indemnified Parties, without limitation, for all Damages arising from, out of, in connection with, or as a result of any and all Claims including, but not limited to: (a) any personal injury, property damage, commercial loss or environmental contamination resulting from any act or omission of the Area Developer or its Executive Management, employees, agents or representatives; (b) any failure on the part of the Area Developer to comply with any requirement of any federal or state laws or any rules or regulations of any Governmental Authority; (c) any failure of the Area Developer to pay any of its obligations to any person or Entity; (d) any failure of the Area Developer to comply with any requirement or condition of this Agreement or any other agreement with Franchisor and/or the Indemnified Parties; (e) any misfeasance or malfeasance by the Area Developer or its Executive Management, employees, agents or representatives; (f) any tort committed by the Area Developer or its Executive Management, employees, agents or representatives; or (g) any other Claims brought against any of the Indemnified Parties, including, but not limited to, claims brought by the Area Developer. The Area Developer will not be obligated to

indemnify the Indemnified Parties for any Damages attributable to, arising out of, from, in connection with, or as a result of any negligence or wrongdoing by the Indemnified Parties. Any of the Indemnified Parties will have the right to defend any Claim made against it arising from, as a result of, in connection with or out of the operation of the Area Developer's Restaurants.

### **13.2 Payment of Costs and Expenses.**

Area Developer will pay all attorneys' fees, costs, and expenses incurred by Franchisor if Franchisor prevails in any action: (a) it commences or defends to enforce any term, condition, or provision of this Agreement, or (b) to enjoin any violation of this Agreement by either Franchisor or Area Developer. These indemnification provisions and the other obligations contained in this Agreement will continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement.

## **SECTION 14**

### **MANDATORY NON-BINDING MEDIATION**

### **14.1 Mediation.**

Except as otherwise stated in this Section 14, the parties agree to submit any claim, controversy, or dispute arising out of or relating to this Agreement (and attachments) or the relationship created by this Agreement to non-binding mediation before bringing such claim, controversy or dispute to arbitration or to a court. The mediation will be conducted either through an individual mediator or a mediator appointed by a mediation services organization, experienced in the mediation of disputes between a franchisors and franchisees, agreed upon by the parties. If the parties do not agree upon a mediator or mediation services organization within 15 days after either party has notified the other of its desire to seek mediation, the dispute will be mediated by the American Arbitration Association pursuant to its rules governing mediation, in Minneapolis, Minnesota, or within 25 miles of Franchisor's then-current headquarters. The costs and expenses of mediation, including compensation of the mediator, will be borne equally by the parties. If the parties cannot resolve the claim, controversy or dispute within 60 days after conferring with the mediator, either party may submit such claim, controversy or dispute to arbitration, or to the appropriate court (if applicable), as described in Sections 14.2 and 14.4 below.

### **14.2 Arbitration.**

Except to the extent Franchisor elects to enforce the provisions of this Agreement by injunction as provided in Section 14.4 below, all disputes, claims and controversies between the parties arising under or in connection with this Agreement or the making, performance or interpretation thereof (including claims of fraud in the inducement and other claims of fraud in the arbitrability of any matter) that have not been settled by or are not otherwise subject to mediation as described in Section 14.1 above will be resolved by arbitration on an individual basis under the authority of the Federal Arbitration Act in Minneapolis, Minnesota, or within 25 miles of Franchisor's then-current headquarters. The arbitrator(s) will have a minimum of 5 years' experience in franchising or distribution law and will have the right to award specific performance of this Agreement. The proceedings will be conducted under the Commercial Arbitration Rules of the American Arbitration Association, or the rules of such other arbitration services organization as the parties otherwise may agree upon in writing, to the extent such rules are not inconsistent with the provisions of this arbitration provision or the Federal Arbitration Act. The decision of the arbitrator(s) will be final and binding on all parties; provided, however, the arbitrator(s) may not under any circumstances: (1) stay the effectiveness of any pending termination of this Agreement; (2) assess punitive or exemplary damages; or (3) make any award which extends, modifies or suspends any lawful term of this Agreement or any reasonable standard of business performance we establish. Any arbitration proceeding will be limited to controversies between Franchisor and Area Developer, and will not be expanded to include any other Cowboy Jack's franchisee or include any class action claims. This Section 14 will survive termination or expiration of this Agreement under any circumstances. Judgment upon the award of arbitrator(s) may

be entered in any court having jurisdiction thereof. During any arbitration proceeding, Franchisor and Area Developer will fully perform their respective obligations under this Agreement.

#### **14.3 Miscellaneous.**

The matters set forth in Section 14.4 will not be subject to mediation, arbitration, or the provisions of this Section. All matters, testimony, arguments, evidence, allegations, documents and memorandums, and the decision of the mediator will be confidential in all respects and will not be disclosed to any other person or Entity by either party. Franchisor and Area Developer will continue to perform their respective obligations pursuant to this Agreement during the mediation and arbitration process.

#### **14.4 Disputes Not Subject to Mediation.**

The following disputes between Franchisor and Area Developer will not be subject to mediation: (a) use of the Marks by either Franchisor or Area Developer; (b) the obligations of Area Developer and Franchisor upon termination or expiration of this Agreement; (c) any alleged breach of the provisions of this Agreement relating to Confidential Information and in-term and post-term covenants not to compete contained in Section 11; (d) any dispute regarding Area Developer's obligations to indemnify Franchisor and/or an Affiliate for any Claims or Damages pursuant to Section 13 of this Agreement; and (e) any injunctive actions commenced by either party pursuant to this Agreement or pursuant to any statutory or common law rights.

### **SECTION 15** **ENFORCEMENT**

#### **15.1 Injunctive Relief.**

Either Area Developer or Franchisor will have the right to petition a court of competent jurisdiction for the entry of temporary and permanent injunctions and orders of specific performance enforcing the provisions of this Agreement for any action relating to: (a) the use of the Marks and/or the Cowboy Jack's System by Franchisor or Area Developer; (b) the obligations of Area Developer or Franchisor upon termination or expiration of this Agreement; and (c) any breaches by Area Developer or Franchisor of the provisions of this Agreement relating to Confidential Information and the provisions of Section 11 relating to the interpretation, construction or enforcement of the covenants not to compete.

#### **15.2 Payments to Franchisor.**

Area Developer will not, on grounds of the alleged nonperformance by Franchisor of any of its obligations under this Agreement, any other contract between Franchisor and Area Developer, or for any other reason, withhold payment of any Fees or payments due Franchisor pursuant to this Agreement, any Franchise Agreement or any other contract with Franchisor. Area Developer will not have the right to "offset" or withhold any liquidated or unliquidated amounts, damages or other funds allegedly due to Area Developer by Franchisor against any Fees or payments due to Franchisor by Area Developer. Franchisor will have the right to deduct from amounts payable to Area Developer by Franchisor or an Affiliate any Fees or other payments owed to Franchisor, an Affiliate or a third party. Franchisor will also have the right to apply the Fees and other payments made to Franchisor by Area Developer in such order as Franchisor may designate from time to time. As to Area Developer and its Affiliates, Franchisor will have the right to: (a) apply any payments received to any past due, current, future or other indebtedness of any kind, no matter how payment is designated by Area Developer, except that Marketing Fund Fees may only be credited to the Marketing Fund; (b) set off, from any amounts that may be owed by Franchisor, any amount owed to Franchisor, the Marketing Fund or any other fund or account; and (c) retain any amounts received for Area Developer's account (and/or that of any Affiliate of Area Developer), whether rebates from suppliers or otherwise, as a payment against any Fee owed to Franchisor. Franchisor will have the right to exercise any of the foregoing rights in connection with amounts owed to or from Franchisor and/or any Affiliate.

### **15.3 Effect of Wrongful Termination.**

If either Franchisor or Area Developer takes any action to terminate this Agreement except as provided for under the terms of this Agreement, then: (a) such actions will not relieve either party of, or release either party from, any of its obligations under this Agreement; (b) the terms and conditions of this Agreement will remain in full force and effect; and (c) the parties will be obligated to fully perform all terms and conditions of this Agreement until such time as this Agreement expires or is terminated in accordance with the provisions of this Agreement and applicable law.

### **15.4 Attorneys' Fees and Costs.**

Area Developer will fully reimburse and indemnify Franchisor for all attorneys' fees and costs incurred by Franchisor in (a) enforcing any of the terms and conditions of this Agreement, including a breach of this Agreement, against Area Developer not involving any proceeding or court action and (b) any proceeding or court action brought against Area Developer to enforce the terms and conditions of this Agreement, including a breach of this Agreement.

### **15.5 Venue and Jurisdiction.**

All court proceedings, lawsuits and court hearings initiated by Area Developer or Franchisor must and will be venued exclusively in the state or federal courts located in Hennepin County, Minnesota. Area Developer and its Executive Management and Owners do hereby agree and submit to personal jurisdiction in such court for the purposes of any suit, proceeding or hearing brought to enforce or construe the terms of this Agreement or to resolve any dispute or controversy arising under, as a result of, or in connection with this Agreement or Area Developer's Restaurants, and do hereby agree and stipulate that any such suits, proceedings and hearings will be exclusively venued and held in such court. Area Developer, its Executive Management and Owners waive any rights to contest such venue and jurisdiction and waive any rights to argue or contest before any court or Arbitrator the validity of such venue and jurisdiction are invalid.

### **15.6 Limitation of Actions.**

Except as provided otherwise in this Agreement or by applicable law, and except for any Claims brought under the indemnification provisions of this agreement, any and all Claims arising out of or relating to this Agreement, the relationship of Area Developer and Franchisor, or Area Developer's operation of the Restaurants brought by either party against the other, whether in mediation or any court proceeding, will be commenced within 12 months after the occurrence of the facts giving rise to such claim or action, or such claim or action will be barred.

### **15.7 Waiver of Jury Trial.**

FRANCHISOR AND AREA DEVELOPER IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER OF THEM AGAINST THE OTHER, WHETHER OR NOT THERE ARE OTHER PARTIES IN SUCH ACTION OR PROCEEDING.

### **15.8 Waiver of Damages.**

AREA DEVELOPER HEREBY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO OR CLAIM OF ANY LOST FUTURE PROFITS OR PUNITIVE, EXEMPLARY, CONSEQUENTIAL, OR MULTIPLE DAMAGES AGAINST FRANCHISOR, AND AGREE THAT IN THE EVENT OF A DISPUTE BETWEEN THEM AREA DEVELOPER SHALL BE LIMITED TO THE RECOVERY OF ANY ACTUAL DAMAGES SUSTAINED BY IT.

### **15.9 Severability.**

All provisions of this Agreement are severable, and this Agreement will be interpreted and enforced as if all completely invalid or unenforceable provisions were not contained herein and partially valid and

enforceable provisions will be enforced to the extent valid and enforceable. If any applicable law or rule of any jurisdiction requires a greater prior notice of the termination of this Agreement than is required hereunder or the taking of some other action not required hereunder, or if under any applicable law or rule of any jurisdiction, any provision of this Agreement is invalid or unenforceable under applicable law, then the prior notice or other action required by such law or rule will be substituted for the notice requirements hereof, or such invalid or unenforceable provision will be modified to the extent required to be valid and enforceable. Such modifications to this Agreement will be effective only in such jurisdiction.

**15.10 Waiver.**

Franchisor and Area Developer may, by written instrument signed by Franchisor and Area Developer, waive any obligation of or restriction upon the other under this Agreement. Acceptance by Franchisor of any payment or partial payment by Area Developer and the failure, refusal or neglect of Franchisor to exercise any right under this Agreement or to insist upon full compliance by Area Developer of its obligations hereunder will not constitute a waiver by Franchisor of any provisions, covenants, or conditions of this Agreement, or other amounts due. Franchisor will have the right to waive obligations or restrictions for other area developers under their development agreements without waiving those obligations or restrictions for Area Developer and, except to the extent provided by law, Franchisor will have the right to negotiate terms and conditions, grant concessions and waive obligations for other area developers without granting those same rights to Area Developer and without incurring any liability to Area Developer whatsoever.

**15.11 No Oral Modification.**

No modification, change, addition, rescission, release, amendment or waiver of this Agreement and no approval, consent or authorization required by any provision of this Agreement may be made by any person except by a written agreement signed by a duly authorized officer or partner of Area Developer and the President or a Vice President of Franchisor.

**15.12 Entire Agreement.**

This Agreement supersedes and terminates all prior agreements, either oral or in writing, between the parties involving the franchise relationship and therefore, representations, inducements, promises or agreements alleged by either Franchisor or Area Developer that are not contained in this Agreement will not be enforceable. The Introduction is part of this Agreement, which constitutes the entire agreement of the parties, and there are no other oral or written understandings or agreements between Franchisor and Area Developer relating to the subject matter of this Agreement. This Agreement will not supersede any written agreements or contracts that are signed concurrently with this Agreement. In addition, any Area Development Agreement between the parties, as well as any other Franchise Agreement(s), will remain in full force and effect in accordance with the terms and conditions thereof, and will not be superseded by this Agreement. The parties hereby acknowledge that this provision will not act as a disclaimer of the representations made by Franchisor in the Franchise Disclosure Document provided to Area Developer prior to the execution of this Agreement by Area Developer.

**15.13 Headings; Terms.**

The headings of the Sections are for convenience only and do not in any way define, limit or construe the contents of such Sections. The term "Area Developer" as used herein is applicable to one or more individuals or an Entity, as the case may be, and the singular usage includes the plural, the masculine usage includes the neuter and the feminine, and the neuter usage includes the masculine and the feminine. References to "Area Developer," "assignee" and "transferee" which are applicable to an individual or individuals will mean the Owner or Owners of the equity or operating control of Area Developer or any such assignee or transferee if Area Developer or such assignee or transferee is an Entity.

#### **15.14 Miscellaneous.**

The rights of Franchisor hereunder are cumulative and no exercise or enforcement by Franchisor of any right or remedy hereunder will preclude the exercise or enforcement by Franchisor of any other right or remedy hereunder or which Franchisor is entitled by law to enforce. This Agreement is binding upon the parties hereto and their executors, administrators, heirs, assigns and successors in interest. If Area Developer consists of more than one person or Entity, their liability under this Agreement will be deemed to be joint and several.

### **SECTION 16 NOTICES**

All notices to Franchisor will be in writing and will be made by personal service upon an officer or director of Franchisor or sent by prepaid registered or certified mail addressed to the President of AMG Franchises LLC at the address on the cover page of this Agreement, or such other address as Franchisor may subsequently designate in writing, with a copy to Lathrop GPM LLP, Attention: Ryan R. Palmer, Esq., 3100 IDS Center, 80 South 8th Street, Minneapolis, Minnesota 55402. All notices to Area Developer will be made by personal service (or, if applicable, upon an officer of Area Developer) or sent by prepaid registered or certified mail addressed to Area Developer at the address set forth on the cover of this Agreement, or such other address as Area Developer may subsequently designate in writing. For the purposes of this Agreement, personal service will include service by a recognized overnight delivery service (such as Federal Express, Airborne Express or UPS) which requires a written confirmation of delivery to the addressee. Any notice delivered in the manner specified herein will be deemed delivered and received, regardless of whether the recipient refuses or fails to sign for the notice, if addressed to the recipient at the address set forth above or the last designated or last known address of the recipient, and will be deemed effective upon written confirmation of delivery to the recipient or 3 business days after being mailed, whichever is applicable.

### **SECTION 17 ACKNOWLEDGMENTS; DISCLAIMER**

#### **17.1 Disclaimer.**

FRANCHISOR DOES NOT WARRANT OR GUARANTEE THAT AREA DEVELOPER WILL DERIVE INCOME OR PROFIT FROM ITS RESTAURANTS, OR THAT FRANCHISOR WILL REFUND ALL OR PART OF THE DEVELOPMENT FEE OR INITIAL FEES PAID BY AREA DEVELOPER OR REPURCHASE ANY OF THE FOODS, BEVERAGES AND PRODUCTS, TECHNOLOGY, OR FF&E SUPPLIED OR SOLD BY FRANCHISOR OR BY AN APPROVED OR DESIGNATED SUPPLIER IF AREA DEVELOPER IS IN ANY WAY UNSATISFIED WITH ITS RESTAURANTS. FRANCHISOR EXPRESSLY DISCLAIMS THE MAKING OF ANY EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES REGARDING THE SALES, EARNINGS, INCOME, PROFITS, REVENUES, ECONOMICS, BUSINESS OR FINANCIAL SUCCESS, OR VALUE OF AREA DEVELOPER'S RESTAURANTS EXCEPT AS SPECIFICALLY CONTAINED IN THE FRANCHISE DISCLOSURE DOCUMENT RECEIVED BY AREA DEVELOPER.

#### **17.2 Acknowledgments by Area Developer.**

Area Developer acknowledges that it has conducted an independent investigation of the Cowboy Jack's System and the Restaurants and recognizes that the business venture contemplated by this Agreement and the operation of the Restaurants involve business and economic risks. Area Developer acknowledges that the financial, business and economic success of Area Developer's Restaurants will be primarily dependent upon the personal efforts of Area Developer, its management and employees, and on economic conditions in the area where Area Developer's Restaurants are located and economic conditions in general. Area

Developer acknowledges and agrees that the officers, directors, employees, and agents of Franchisor act only in a representative capacity and not in an individual capacity, and that no other persons and/or Entities other than Franchisor has or will have any duties or obligations to Area Developer under this Agreement. Area Developer acknowledges that it has not received any estimates, projections, representations, warranties or guaranties, expressed or implied, regarding potential sales, Gross Sales, income, profits, earnings, expenses, financial or business success, value of the Restaurants, or other economic matters pertaining to Area Developer's Restaurants from Franchisor or any of its agents that were not expressly set forth in the Franchise Disclosure Document received by Area Developer from Franchisor ("**Representations**"). Area Developer further acknowledges that if it had received any such Representations, it would not have executed this Agreement, promptly notified the President of Franchisor in writing of the person or persons making such Representations, and provided to Franchisor a specific written statement detailing the Representations made.

Area Developer recognizes and acknowledges that this Agreement requires Area Developer to open a certain number of Restaurants in the future pursuant to the Development Schedule. Area Developer further acknowledges that the estimated expenses and investment requirements set forth in Items 6 and 7 of the Cowboy Jack's Franchise Disclosure Document are subject to increase over time, and that future Restaurants likely will involve greater initial investment and operating capital requirements than those stated in the Franchise Disclosure Document provided to Area Developer prior to the execution of this Agreement. Area Developer must execute all the Franchise Agreements and open all of the Restaurants in accordance with the dates set forth on the Development Schedule, regardless of (i) the requirement of a greater investment, (ii) the financial condition or performance of Area Developer's prior Restaurants, or (iii) any other circumstances, financial or otherwise. The foregoing will not be interpreted as imposing any obligation upon Franchisor to execute the Franchise Agreements under this Agreement if Area Developer has not complied with each and every required condition to obtain such Franchise Agreements including, but not limited to, Area Developer's satisfaction of Franchisor's then-current requirements for franchisees.

Franchisor has entered into this Agreement based, in part, on Area Developer's current financial condition and Franchisor assessment of Area Developer's ability to meet Cowboy Jack's financial requirements. Area Developer further acknowledges that operating Restaurants and meeting Cowboy Jack's re-equipment, remodeling and other obligations will require significant capital. Area Developer and its affiliates must at all times maintain reasonably adequate financial resources, taking into account current resources, reasonably projected future cash flows, and reasonable assumptions related to financing, to meet Area Developer's required capital and operational expenses under this Agreement and the Franchise Agreements. Area Developer must promptly provide such financial information related to Area Developer and its affiliates as required by the Franchise Agreements and as we may reasonably request, including, but not limited to, financial statements, debt agreements (and an accounting of Area Developer's compliance with such agreements), and historical and projected cash flows and expenses.

### **17.3 Business Judgment.**

Area Developer understands and agrees that whenever Franchisor reserves or is deemed to have reserved rights in a particular area, or where Franchisor agrees or is deemed to be required to exercise its rights reasonably or in good faith, Franchisor will satisfy its obligations whenever it exercises reasonable business judgment in making Franchisor's decision or exercising a right (regardless of whether such term is expressly stated). A decision or action by Franchisor will be deemed to be the result of reasonable business judgment, even if other reasonable or even arguably preferable alternatives are available, if Franchisor's decision or action is intended, in whole or significant part, to promote or benefit the System generally even if the decision or action also promotes a financial or other individual interest of Franchisor. Neither Area Developer nor any third party (including, without limitation, a trier of fact) may substitute its judgment for Franchisor's reasonable business judgment.

#### **17.4 Other Area Developers.**

Area Developer acknowledges that other area developers have or will be granted development agreements at different times, for different areas, under different economic conditions and in different situations, and further acknowledges that the economics, terms and conditions of such other development agreements may vary substantially in form and in substance from those contained in this Agreement.

#### **17.5 Receipt of Agreement and Franchise Disclosure Document.**

Area Developer acknowledges that it received a copy of this Agreement with all material blanks fully completed at least 7 calendar days prior to the date that this Agreement was executed by Area Developer. Area Developer further acknowledges that it received a copy of Franchisor's Franchise Disclosure Document at least 14 calendar days prior to the date on which this Agreement was executed. Area Developer confirms receiving the Franchise Disclosure Document on the date Area Developer signed the acknowledgment of receipt page (the "**Receipt Page**") attached to the Franchise Disclosure Document. Area Developer and Franchisor each acknowledge receiving a signed and dated copy of the Receipt Page.

### **SECTION 18** **AREA DEVELOPER'S LEGAL COUNSEL**

Area Developer acknowledges that this Agreement constitutes a legal document which grants certain rights to and imposes certain obligations upon Area Developer. Area Developer has been advised by Franchisor to retain an attorney or advisor prior to the execution of this Agreement to review the Franchise Disclosure Document, to review this Agreement in detail, to review all legal documents, to review the economics, operations and other business aspects of the Cowboy Jack's Restaurants, to determine compliance with franchising and other applicable laws, to advise Area Developer on economic risks, liabilities, obligations and rights under this Agreement and to advise Area Developer on tax issues, financing matters, applicable state and federal laws, liquor laws, health and safety laws, environmental laws, employee issues, insurance, structure of the restaurant business, and other legal and business matters. The name and telephone number of Area Developer's attorney or other advisor is: \_\_\_\_\_

Telephone Number: ( ) \_\_\_\_\_; Email Address: \_\_\_\_\_.

### **SECTION 19** **GOVERNING LAW; STATE MODIFICATIONS**

#### **19.1 Governing Law; Severability.**

Except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. §1051, et seq.), all claims arising out of or relating to this Agreement and/or the relationship between Franchisor and Area Developer will be governed by the procedural and substantive laws of the state where Area Developer's Territory is located, unless applicable state law specifically provides otherwise. If Area Developer's Territory includes more than one state, then this Agreement will be governed by the state in which Area Developer's principal place of business is located. The provisions of this Agreement which conflict with or are inconsistent with applicable governing law will be superseded and/or modified by such applicable law only to the extent such provisions are inconsistent. All other provisions of this Agreement will be enforceable as originally made and entered into upon the execution of this Agreement by Area Developer and Franchisor. The parties agree that any state law or regulation applicable to the offer or sale of franchises or the franchise relationship will not apply unless the jurisdictional provisions are independently met. Area Developer waives, to the fullest extent permitted by law, the rights and protections provided by any such franchise law or regulation.



### **19.2 Applicable State Laws.**

If applicable, the following states have statutes which may supersede the provisions of this Agreement in Area Developer's relationship with Franchisor in the areas of termination and renewal of the Franchise: Arkansas [Stat. Section 70-807], California [Bus. & Prof. Code Sections 20000-20043], Connecticut [Gen. Stat. Section 42-133e, et seq.], Delaware [Code Section 2552], Hawaii [Rev. Stat. Section 482E-1], Illinois [815 ILCS 705/19-20], Indiana [Stat. Section 23-2-2.7], Michigan [Stat. Section 19.854(27)], Minnesota [Stat. Section 80C.14], Mississippi [Code Section 75-24-51], Missouri [Stat. Section 407.400], Nebraska [Rev. Stat. Section 87-401], New Jersey [Stat. Section 56:10-1], Virginia [Code 13.1-557-574-13.1-564], Washington [Code Section 19.100.180], and Wisconsin [Stat. Section 135.03]. These and other states may have court decisions that may supersede the provisions of this Agreement in Area Developer's relationship with Franchisor in the areas of termination and renewal of the Franchise.

### **19.3 State Law Modifications.**

If the Territory is located in any one of the states indicated below in this Article, or if the laws of any such state are otherwise applicable, then the designated provisions of this Agreement will be amended and revised as follows:

(a) Minnesota. If this Agreement is governed by the laws of the State of Minnesota, then: (1) except in certain circumstances specified by Minnesota law, Franchisor must give Area Developer at least 180 days prior written notice of nonrenewal of the Franchise; (2) except in certain circumstances provided by Minnesota law, if Franchisor gives Area Developer written notice that Area Developer has breached this Agreement, such written notice will be given to Area Developer at least 90 days prior to the date this Agreement is terminated by Franchisor, and Area Developer will have 60 days after such written notice within which to correct the breach specified in the written notice; (3) notwithstanding any provisions of this Agreement to the contrary, a court of competent jurisdiction will determine whether Franchisor will be required to post a bond or other security, and the amount of such bond or other security, in any injunctive proceeding commenced by Franchisor against Area Developer or the Owners; and (4) notwithstanding any provisions of this Agreement to the contrary, Area Developer will have up to 3 years after the cause of action accrues to bring an action against Franchisor pursuant to Minn. Stat. §80C.17.

(b) North Dakota. If this Agreement is governed by the laws of the State of North Dakota, then: (1) the covenant not to compete upon termination or expiration of this Agreement may be unenforceable, except in certain circumstances provided by law; (2) mediation or arbitration hearings will be conducted in Fargo, North Dakota or at a mutually agreed upon location; (3) the consent by Area Developer to jurisdiction and venue in the State of Wisconsin contained in this Agreement will be inapplicable to Area Developer; and (4) any provisions of this Agreement which limit the statute of limitations for claims under the North Dakota Franchise Investment Law (the "North Dakota Law") or the parties' rights or remedies under the North Dakota Law, such as the right to recover punitive damages or to a jury trial, will not be enforceable.

(c) Wisconsin. If this Agreement is governed by the laws of the State of Wisconsin, then the provisions of the Wisconsin Fair Dealership Law, Wis. Stat. Chapter 135, will supersede any conflicting terms of this Agreement.

## **SECTION 20** **DEFINITIONS**

For purposes of this Agreement, the following words will have the following definitions:

### **20.1 Franchise Agreement.**

"Franchise Agreement" will mean Franchisor's then-current standard Franchise Agreement.

**20.2 Terms Defined in Franchise Agreement.**

Capitalized terms used but not defined in this Agreement will, if defined in the Franchise Agreement, have the meanings ascribed to such terms in the Franchise Agreement as applicable to Area Developer.

[Remainder of Page Intentionally Left Blank]

**IN WITNESS WHEREOF**, Franchisor, Area Developer and Area Developer's Owners have respectively signed this Agreement effective as of the date set forth above.

In the Presence of:

\_\_\_\_\_  
Signature

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

**AMG Franchises LLC**

By \_\_\_\_\_  
Signature

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

Its \_\_\_\_\_  
Title

In the Presence of:

\_\_\_\_\_  
Signature

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

**Area Developer**

\_\_\_\_\_  
Legal Name

By \_\_\_\_\_  
Signature

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

Its \_\_\_\_\_  
Title

In the Presence of:

\_\_\_\_\_  
Signature

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

By \_\_\_\_\_  
Signature

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

Its \_\_\_\_\_  
Title

The undersigned Owners of Area Developer hereby agree to be bound by the terms and conditions of this Agreement applicable to each one of the Owners, which in no event will limit any of the obligations undertaken by the Owners in any other capacity or under any other agreement.

<u>In the Presence of:</u>	<u>Names of Owners:</u>	<u>Percentage of Ownership:</u>
_____ Signature	_____ Signature	_____%
_____ Print Name	_____ Print Name	
_____ Signature	_____ Signature	_____%
_____ Print Name	_____ Print Name	
_____ Signature	_____ Signature	_____%
_____ Print Name	_____ Print Name	
_____ Signature	_____ Signature	_____%
_____ Print Name	_____ Print Name	
	Total	<u>100%</u>

## **PERSONAL GUARANTY**

THIS PERSONAL GUARANTY (this “**Personal Guaranty**”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (the “**Effective Date**”), by and between AMG Franchises LLC, a Minnesota limited liability company (“**Franchisor**”) and each one of the undersigned personal guarantors (the “**Personal Guarantors**”).

WHEREAS, Franchisor and \_\_\_\_\_, (a/an) \_\_\_\_\_ (“**Area Developer**”) have entered into an Area Development Agreement, dated the same date as set forth above, for the development and operation of franchised Cowboy Jack’s Restaurants in the Territory (the “**Area Development Agreement**”).

WHEREAS, it is the desire of each one of the undersigned Personal Guarantors to personally guaranty the obligations of Area Developer under the Area Development Agreement and to be individually, jointly and severally bound by the terms and conditions of the Area Development Agreement.

NOW, THEREFORE, in consideration of the execution of the Area Development Agreement by Franchisor, and for other good and valuable consideration, each one of the undersigned, for themselves, their heirs, successors, and assigns, do individually, jointly and severally hereby become surety and guaranty for the payment of all amounts and the performance of the covenants, terms and conditions of the Area Development Agreement, including the covenants not to compete, to be paid, kept and performed by Area Developer.

Obligations under Agreement. Each one of the undersigned, individually and jointly, hereby agree to be personally bound by each and every condition and term contained in the Area Development Agreement, and agree that this Personal Guaranty should be construed as though the undersigned and each of them executed an agreement containing the identical terms and conditions of the Area Development Agreement. Each one of the Personal Guarantors acknowledges having received a copy of the Area Development Agreement which is incorporated herein by reference.

Default of Area Developer. If Area Developer defaults on any monetary obligation of the Area Development Agreement, then each one of the undersigned, their heirs, successors and assigns, do hereby, individually, jointly and severally, promise and agree to pay to Franchisor the Fees due and payable to Franchisor under the terms and conditions of the Area Development Agreement or for any purchases of goods or services made by Area Developer from Franchisor or any Affiliate of Franchisor.

Noncompliance by Area Developer. If Area Developer fails to comply with any other terms and conditions of the Area Development Agreement, then each one of the undersigned, their heirs, successors and assigns, do hereby, individually, jointly and severally, promise and agree to comply with the terms and conditions of the Area Development Agreement for and on behalf of Area Developer.

Obligations to Franchisor. If Area Developer is at any time in default on any obligation to pay monies to Franchisor or any affiliate of Franchisor, whether for the Initial Fee, Royalty Fees, Marketing Fund Fees, goods or services purchased by Area Developer from Franchisor or any Affiliate of Franchisor, or for any other indebtedness of Area Developer to Franchisor or any Affiliate of Franchisor, then each of the undersigned, their heirs, successors and assigns, do hereby, individually, jointly and severally, promise and agree to pay all such monies due and payable by Area Developer to Franchisor or any Affiliate of Franchisor upon default by Area Developer.

**Binding Agreement.** Each one of the Personal Guarantors warrant and represent that they have the capacity to execute this Personal Guaranty and that they will each be bound by all of the terms and conditions of this Personal Guaranty. The provisions, covenants and conditions of this Personal Guaranty will inure to the benefit of the successors and assigns of Franchisor.

**Jurisdiction and Venue.** Except as precluded by applicable law, all mediation, arbitration, litigation, actions or proceedings pertaining to this Personal Guaranty will be brought and venued in accordance with the terms of the Area Development Agreement, and each one of the Personal Guarantors agrees to the dispute resolution provisions, including jurisdiction and venue, contained in the Area Development Agreement.

**Personal Guarantors**

_____ Signature	_____ Signature
_____ Print Name	_____ Print Name
_____ Address	_____ Address
_____ City, State and Zip Code	_____ City, State and Zip Code
_____ Telephone	_____ Telephone
_____ Signature	_____ Signature
_____ Print Name	_____ Print Name
_____ Address	_____ Address
_____ City, State and Zip Code	_____ City, State and Zip Code
_____ Telephone	_____ Telephone

**AMG FRANCHISES LLC  
FRANCHISE DISCLOSURE DOCUMENT**

**EXHIBIT F**

**SAMPLE RELEASE**

## AMG Franchises LLC

### SAMPLE RELEASE

Unless precluded by applicable state law, if you sell, assign or transfer your Franchise Agreement or Area Development Agreement to a third party, you will sign a joint and mutual release containing language substantially similar to the following:

This Joint and Mutual Release is made, entered into and effective this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between AMG Franchises LLC (the “**Franchisor**”) and \_\_\_\_\_ (the “**Franchisee**”).

The Franchisee entered into a Franchise/Area Development Agreement, dated \_\_\_\_\_, 20\_\_ with the Franchisor (the “**Agreement**”) authorizing the Franchisee to open and operate a franchised Cowboy Jack’s Restaurant(s) at/in \_\_\_\_\_.

The Franchisee desires to renew the Franchise for the Restaurant/transfer, sell and assign the Agreement to a third party (the “**Assignee**”).

The Franchisor has agreed to consent to the renewal of the Franchise for the Restaurant/transfer, sale and assignment of the Agreement by the Franchisee to the Assignee, a condition of which is the execution of the following joint and mutual release by the Franchisor and the Franchisee:

1. Release of Franchisor by Franchisee. For and in consideration of the execution of this Joint and Mutual Release and the consent by the Franchisor to the assignment of the Agreement to the Assignee, the Franchisee and its affiliates hereby release and forever discharge the Franchisor and its current and former affiliates from any and all claims which the Franchisee and its affiliates have had or now have or may in the future have against the Franchisor and its current and former affiliates or any of them, for, upon or by reason of any matter, fact or thing whatsoever from the beginning of time through and including the date of this Joint and Mutual Release including, but not limited to, any alleged violations of the Federal Trade Commission’s Trade Regulation Rule relating to Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures, “mini” FTC laws, deceptive or unfair trade practices laws, franchise laws or securities laws, and all other local, municipal, state, federal or other laws, statutes, rules or regulations, and any alleged breaches or violations of the Agreement and/or any other agreements between the Franchisee and its affiliates and any of them, and the Franchisor and its affiliates and any of them; provided, however, that this provision will not apply to any claims specifically excluded by terms of this Joint and Mutual Release.

2. Release of Franchisee by Franchisor. For and in consideration of the execution of this Joint and Mutual Release and the consent by the Franchisor to the assignment of the Agreement to the Assignee, the Franchisor and its affiliates hereby release and forever discharge the Franchisee and its affiliates from any and all claims which the Franchisor and its affiliates have had or now have against the Franchisee and its affiliates for, upon or by reason of any matter, fact or thing whatsoever from the beginning of time through, up to and including the date of this Joint and Mutual Release including, but not limited to, any local, municipal, state, federal or other laws, statutes, rules or regulations, and any alleged violations of the Agreement, and/or any other agreements between the Franchisee and its affiliates and any of them, and the Franchisor and its affiliates and any of them; provided, however, that this provision will not apply to any claims specifically excluded by terms of this Joint and Mutual Release.



“Franchisee”

\_\_\_\_\_

By \_\_\_\_\_

Its \_\_\_\_\_

“Franchisor”

AMG Franchises LLC

By \_\_\_\_\_

Its \_\_\_\_\_

The above language may be modified or supplemented to address issues specific to the transfer of your Franchise Agreement or Area Development Agreement to a third party, or to comply with applicable law (see the Addendum to the Franchise Disclosure Document).

**AMG FRANCHISES LLC  
FRANCHISE DISCLOSURE DOCUMENT**

**EXHIBIT G**

**STATE ADDENDA**

Item 17 of the Disclosure Document provided to a prospective franchisee for a franchised Restaurant to be located in or who is a resident of any state indicated below in this Addendum is amended by the addition of the following language:

**North Dakota:** Covenants not to compete are generally unenforceable in North Dakota, except in limited circumstances provided by law.

The North Dakota Securities Commissioner has held that requiring North Dakota franchisees to consent to the jurisdiction of courts outside of North Dakota is unenforceable.

## MINNESOTA ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT

To the extent the Minnesota Franchise Act, Minn. Stat. §§80C.01 – 80C.22 applies, the terms of this Addendum apply.

1. Minnesota Statutes, Section 80C.21 and Minnesota Rules 2860.4400(J) prohibit the franchisor from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring the franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the Franchise Disclosure Document or agreement(s) can abrogate or reduce (1) any of the franchisee's rights as provided for in Minnesota Statutes, Chapter 80C or (2) franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.
2. With respect to franchises governed by Minnesota law, the franchisor will comply with Minnesota Statutes, Section 80C.14, Subd. 3-5, which require (except in certain specified cases) (1) that a franchisee be given 90 days notice of termination (with 60 days to cure) and 180 days notice for non-renewal of the franchise agreement and (2) that consent to the transfer of the franchise will not be unreasonably withheld.
3. The franchisor will protect the franchisee's rights to use the trademarks, service marks, trade names, logotypes or other commercial symbols or indemnify the franchisee from any loss, costs or expenses arising out of any claim, suit or demand regarding the use of the name. Minnesota considers it unfair to not protect the franchisee's right to use the trademarks. Refer to Minnesota Statutes, Section 80C.12, Subd. 1(g).
4. Minnesota Rules 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a general release.
5. The franchisee cannot consent to the franchisor obtaining injunctive relief. The franchisor may seek injunctive relief. See Minn. Rules 2860.4400J. Also, a court will determine if a bond is required.
6. The Limitations of Claims section must comply with Minnesota Statutes, Section 80C.17, Subd. 5.
7. NSF checks are governed by Minnesota Statute 60A.113, which puts a cap of \$30 on service charges.
8. No statement, questionnaire, or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including, fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed with the franchisee.
9. Minnesota Rule 2860.4400(K) prohibits a franchisor from requiring a security deposit except for the purpose of securing against damage to property, equipment, inventory, or leaseholds.
10. The following risk factors are added to Special Risk Factor section of the FTC Cover Page:

1. **Short Operating History.** The franchisor is at an early stage of development and has a limited operating history. This franchise is likely to be a riskier investment than a franchise in a system with a longer operating history.
  2. **Mandatory Minimum Payments.** You must make minimum royalty or advertising fund payments, regardless of your sales levels. Your inability to make the payments may result in termination of your franchise and loss of your investment.
11. The franchisor will defer the collection of the Initial Franchise Fee until the franchisee has commenced doing business pursuant to the Franchise Agreement.

## MINNESOTA ADDENDUM TO THE FRANCHISE AGREEMENT

To the extent the Minnesota Franchise Act, Minn. Stat. §§80C.01 – 80C.22 applies, the terms of this Addendum apply.

1. Minnesota Statutes, Section 80C.21 and Minnesota Rules 2860.4400(J) prohibit the franchisor from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring the franchisee to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the Franchise Disclosure Document or agreement(s) can abrogate or reduce (1) any of the franchisee's rights as provided for in Minnesota Statutes, Chapter 80C or (2) franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.
2. With respect to franchises governed by Minnesota law, the franchisor will comply with Minnesota Statutes, Section 80C.14, Subd. 3-5, which require (except in certain specified cases) (1) that a franchisee be given 90 days notice of termination (with 60 days to cure) and 180 days notice for non-renewal of the franchise agreement and (2) that consent to the transfer of the franchise will not be unreasonably withheld.
3. The franchisor will protect the franchisee's rights to use the trademarks, service marks, trade names, logotypes or other commercial symbols or indemnify the franchisee from any loss, costs or expenses arising out of any claim, suit or demand regarding the use of the name. Minnesota considers it unfair to not protect the franchisee's right to use the trademarks. Refer to Minnesota Statutes, Section 80C.12, Subd. 1(g).
4. Minnesota Rules 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a general release.
5. The franchisee cannot consent to the franchisor obtaining injunctive relief. The franchisor may seek injunctive relief. See Minn. Rules 2860.4400J. Also, a court will determine if a bond is required.
6. The Limitations of Claims section must comply with Minnesota Statutes, Section 80C.17, Subd. 5.
7. NSF checks are governed by Minnesota Statute 60A.113, which puts a cap of \$30 on service charges.
8. No statement, questionnaire, or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including, fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed with the franchisee.
9. Minnesota Rule 2860.4400(K) prohibits a franchisor from requiring a security deposit except for the purpose of securing against damage to property, equipment, inventory, or leaseholds.
10. The franchisor will defer the collection of the Initial Franchise Fee until the franchisee has commenced doing business pursuant to the Franchise Agreement.

**AMG FRANCHISES LLC  
FRANCHISE DISCLOSURE DOCUMENT**

**EXHIBIT H**

**STATE AGENCY EXHIBIT**

**STATE ADMINISTRATORS AND  
AGENTS FOR SERVICE OF PROCESS**

STATE	STATE ADMINISTRATOR/AGENT	ADDRESS
California	Commissioner of Financial Protection and Innovation California Department of Financial Protection and Innovation	320 West 4 <sup>th</sup> Street, Suite 750 Los Angeles, CA 90013-2344 1-866-275-2677
Hawaii (State Administrator)	Commissioner of Securities Dept. of Commerce and Consumer Affairs Business Registration Division Securities Compliance Branch	335 Merchant Street Room 203 Honolulu, HI 96813
Illinois	Illinois Attorney General	500 South Second Street Springfield, IL 62701
Indiana (State Administrator)	Indiana Securities Commissioner Securities Division	302 West Washington Street, Room E111 Indianapolis, IN 46204
Indiana (Agent)	Indiana Secretary of State	302 West Washington Street, Room E018 Indianapolis, IN 46204
Maryland (State Administrator)	Office of the Attorney General Division of Securities	200 St. Paul Place Baltimore, MD 21202-2020
Maryland (Agent)	Maryland Securities Commissioner	200 St. Paul Place Baltimore, MD 21202-2020
Michigan	Michigan Department of Attorney General Consumer Protection Division	G. Mennen Williams Building, 1 <sup>st</sup> Floor 525 West Ottawa Street Lansing, MI 48933
Minnesota	Commissioner of Commerce Minnesota Department of Commerce	85 7 <sup>th</sup> Place East, Suite 280 St. Paul, MN 55101-2198
New York (State Administrator)	Office of the New York State Attorney General Investor Protection Bureau, Franchise Section	28 Liberty Street, 21 <sup>st</sup> Floor New York, NY 10005 212-416-8236
New York (Agent)	Attention: New York Secretary of State New York Department of State	One Commerce Plaza 99 Washington Avenue, 6 <sup>th</sup> Floor Albany, NY 12231-0001 518-473-2492
North Dakota	Securities Commissioner North Dakota Securities Department	600 East Boulevard Avenue State Capitol, Fifth Floor, Dept. 414 Bismarck, ND 58505-0510
Rhode Island	Director, Department of Business Regulation, Securities Division	1511 Pontiac Avenue John O. Pastore Complex – Building 68-2 Cranston, RI 02920
South Dakota	Department of Labor and Regulation Division of Insurance – Securities Regulation	124 S. Euclid, Suite 104 Pierre, SD 57501 605-773-3563
Virginia (State Administrator)	State Corporation Commission Division of Securities and Retail Franchising	1300 East Main Street, 9 <sup>th</sup> Floor Richmond, VA 23219 804-371-9051
Virginia (Agent)	Clerk of the State Corporation Commission	1300 East Main Street, 1 <sup>st</sup> Floor Richmond, VA 23219-3630
Washington	Department of Financial Institutions Securities Division	150 Israel Road SW Tumwater, WA 98501 360-902-8760  Department of Financial Institutions Securities Division PO Box 41200 Olympia, WA 98507
Wisconsin	Commissioner of Securities	Department of Financial Institutions Division of Securities 4822 Madison Yards Way, North Tower Madison, WI 53705

**AMG FRANCHISES LLC  
FRANCHISE DISCLOSURE DOCUMENT**

**EXHIBIT I**

**FRANCHISEE QUESTIONNAIRE**



## **FRANCHISEE QUESTIONNAIRE**

As you know, AMG Franchises LLC (the “**Franchisor**”) and you are preparing to enter into a Franchise Agreement for the operation of a franchised Cowboy Jack’s Restaurant (the “**Franchise**”). The purpose of this Questionnaire is to determine whether any statements or promises were made to you that the Franchisor has not authorized and that may be untrue, inaccurate or misleading. Please review each of the following questions carefully and provide honest responses to each question.

<b>QUESTION</b>	<b>YES</b>	<b>NO</b>
1. Have you received and personally reviewed the Franchisor’s Franchise Disclosure Document (the “Disclosure Document”) provided to you?		
2. Did you sign a receipt for the Disclosure Document indicating the date you received it?		
3. Do you understand all of the information contained in the Disclosure Document?		
4. Have you received and personally reviewed the Franchise Agreement and each exhibit or schedule attached to it?		
5. Please insert the date on which you received a copy of the Franchise Agreement with all material blanks fully completed: _____		
6. Do you understand the terms of and your obligations under the Franchise Agreement?		
7. Have you discussed the benefits and risks of operating the Franchise with an attorney, accountant or other professional advisor?		
8. Do you understand the risks associated with operating the Franchise?		
9. Do you understand that the success or failure of the Franchise will depend in large part upon your skills and abilities, competition, interest rates, the economy, inflation, labor and supply costs, lease terms and the marketplace?		
10. Do you understand that this Franchise may be impacted by other risks, including those outside your or our control such as economic, political or social disruption, including COVID-19? In addition, do you understand that the COVID-19 outbreak and any preventative or protective actions that federal, state, and local governments may take in response to this pandemic may result in a period of business disruption, reduced customer demand, and reduced operations for Cowboy Jack’s businesses? Do you further understand that the extent to which the coronavirus impacts the Cowboy Jack’s system will depend on future developments which are highly uncertain and which we cannot predict?		
11. Has any employee or other person speaking on behalf of the Franchisor made any statement or promise regarding the amount of money you may earn in operating the Franchise that is contrary to, or different from, the information contained in the Disclosure Document?		

QUESTION	YES	NO
12. Has any employee or other person speaking on behalf of the Franchisor made any statement or promise concerning the total amount of revenue the Franchise will generate that is contrary to, or different from, the information contained in the Disclosure Document?		
13. Has any employee or other person speaking on behalf of the Franchisor made any statement or promise regarding the costs involved in operating the Franchise that is contrary to, or different from, the information contained in the Disclosure Document?		
14. Has any employee or other person speaking on behalf of the Franchisor made any statement or promise concerning the actual, average or projected profits or earnings or the likelihood of success that you should or might expect to achieve from operating the Franchise that is contrary to, or different from, the information contained in the Disclosure Document?		
15. Has any employee or other person speaking on behalf of the Franchisor made any statement or promise or agreement, other than those matters addressed in your Franchise Agreement, concerning advertising, marketing, media support, market penetration, training, support service or assistance relating to the Franchise that is contrary to, or different from, the information contained in the Disclosure Document?		
<p>16. We encourage and strongly recommend that all prospective franchisees contact and speak with existing franchisees as part of your review and diligence process, to inquire about their operations and experience. If you have done so, please identify the franchisees with whom you have communicated:</p> <p>1. _____</p> <p>2. _____</p> <p>3. _____</p> <p>Others: _____</p> <p>If you did not contact any franchisees, please explain why:</p> <p>_____</p> <p>_____</p> <p>_____.</p>		

If you answered “Yes” to any of questions eleven (11) through fifteen (15), please provide a full explanation of your answer in the following blank lines. (Attach additional pages, if necessary, and refer to them below.) If you have answered “No” to each of the foregoing questions, please leave the following lines blank.

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You understand that your answers are important to us and that we will rely on them. By signing this Questionnaire, you are representing that you have responded truthfully to the above questions.

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FRANCHISE APPLICANT

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FRANCHISE APPLICANT

Dated: \_\_\_\_\_, 20\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_\_\_

**AMG Franchises LLC**  
**FRANCHISE DISCLOSURE DOCUMENT**  
**STATE EFFECTIVE DATES AND RECEIPTS**

### **State Effective Dates**

The following states have franchise laws that require that the Franchise Disclosure Document be registered or filed with the state, or be exempt from registration: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington, and Wisconsin.

This document is effective and may be used in the following states, where the document is filed, registered or exempt from registration, as of the Effective Date stated below:

<b>State</b>	<b>Effective Date</b>
Minnesota	Pending
North Dakota	Pending
Wisconsin	April 23, 2025

Other states may require registration, filing, or exemption of a franchise under other laws, such as those that regulate the offer and sale of business opportunities or seller-assisted marketing plans.

## RECEIPT

This Disclosure Document summarizes certain provisions of the Franchise Agreement and other information in plain language. Read this Disclosure Document and all agreements carefully.

If AMG Franchises LLC offers you a franchise, it must provide this Disclosure Document to you at least 14 calendar days before you sign a binding agreement with, or make a payment to, AMG Franchises LLC or an affiliate in connection with the proposed franchise sale.

Iowa and New York require that AMG Franchises LLC give you this Disclosure Document at the earlier of the first personal meeting or 10 business days (or 14 calendar days in Iowa) before the execution of the Franchise Agreement or other agreement or the payment of any consideration that relates to the franchise relationship. Michigan requires that AMG Franchises LLC give you this Disclosure Document at least 10 business days before the execution of any binding Franchise Agreement or other agreement or the payment of any consideration, whichever occurs first.

If AMG Franchises LLC does not deliver this Disclosure Document on time or if it contains a false or misleading statement, or a material omission, a violation of federal and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the state agency listed in the State Agency Exhibit.

Issuance Date: April 21, 2025.

The franchise sellers for this offering are Jeff Crivello, 7575 Golden Valley Rd, Ste 340, Golden Valley, MN 55427, (847) 651-2274, and/or \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

AMG Franchises LLC authorizes the respective state agencies identified in the State Agency Exhibit to receive service of process for it in the particular state.

I received this Disclosure Document, dated April 21, 2025, that included the following exhibits:

Exhibit A: List of Cowboy Jack's Restaurants  
Exhibit B: Operations Manual Table of Contents  
Exhibit C: Financial Statements  
Exhibit D: Franchise Agreement  
Exhibit E: Area Development Agreement  
Exhibit F: Sample Release  
Exhibit G: State Addenda  
Exhibit H: State Agency Exhibit  
Exhibit I: Franchisee Questionnaire

Signed: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Dated: \_\_\_\_\_

Signed: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Dated: \_\_\_\_\_

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Exhibit I: Franchisee Questionnaire

Signed: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Dated: \_\_\_\_\_

Signed: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Dated: \_\_\_\_\_

Copy To:  
Franchisee  
AMG Franchises LLC  
7575 Golden Valley Rd, Ste 340,  
Golden Valley, MN 55427