

## FRANCHISE DISCLOSURE DOCUMENT

**SHAKEY'S USA, INC.,**  
a Delaware Corporation  
2200 West Valley Boulevard  
Alhambra, California 91803  
(626) 576-0616  
[franchiseop@shakeys.com](mailto:franchiseop@shakeys.com)  
[www.shakeys.com](http://www.shakeys.com)



As a franchisee you will operate a Shakey's Pizza Parlor restaurant ("Shakey's Restaurant"). Shakey's Restaurants serve pizza (thin, pan or gourmet), salad, chicken, potatoes, pastas and beverages, including beer and wine, where permissible. Shakey's Restaurants offer quality meals in a pleasant, entertaining family atmosphere. Shakey's Restaurants are usually quick-service with buffet-style Bunch of Lunch®. Additionally, a redemption game room, with prizes, provides an entertainment venue for adults and children.

We offer 2 franchise programs: a single Shakey's Restaurant and multiple Shakey's Restaurants within a defined area, under an Area Development Agreement. The total initial investment necessary for a traditional Shakey's Restaurant ranges from \$1,279,000 to \$3,529,500. This includes \$35,000 that must be paid to us. If you will operate more than one Shakey's Restaurant in a defined geographic area, you can enter into an Area Development Agreement. The initial development fee is \$15,000, for each Shakey's Restaurant to be developed (a minimum of 3), with \$15,000 of the development fee applied towards the initial franchise fee for each Shakey's Restaurant to be developed under the Area Development Agreement. The minimum initial investment under an Area Development Agreement is \$65,000, which includes the franchise fee for the first Shakey's Restaurant of \$35,000 and the minimum development fee for the remaining 2 units of \$30,000.

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 government agency has verified the information contained in this 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 Sonia Barajas-Najera at 2200 West Valley Boulevard, Alhambra, California 91803 (626) 576-0616.

The terms of your contract will govern your franchise relationship. Don't 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. 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: July 24, 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 F.
<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 G 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 Shakey's restaurant 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 Shakey's franchisee?</b>	Item 20 or Exhibit F 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 A.

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 California. 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 California 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.

ADDENDUM TO DISCLOSURE DOCUMENT  
FOR THE STATE OF MICHIGAN

**THE STATE OF MICHIGAN PROHIBITS CERTAIN UNFAIR PROVISIONS THAT ARE SOMETIMES IN FRANCHISE DOCUMENTS. IF ANY OF THE FOLLOWING PROVISIONS ARE IN THESE FRANCHISE DOCUMENTS, THE PROVISIONS ARE VOID AND CANNOT BE ENFORCED AGAINST YOU:**

- (a) A prohibition on the right of a franchisee to join an association of franchisees.
- (b) A requirement that a franchisee assent to a release, assignment, novation, waiver, or estoppel which deprives a franchisee of rights and protections provided in this act. This shall not preclude a franchisee, after entering into a franchise agreement, from settling any and all claims.
- (c) A provision that permits a franchisor to terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include the failure of the franchisee to comply with any lawful provision of the franchise agreement and to cure such failure after being given written notice thereof and a reasonable opportunity, which in no event need be more than 30 days, to cure such failure.
- (d) A provision that permits a franchisor to refuse to renew a franchise without fairly compensating the franchisee by repurchase or other means for the fair market value at the time of expiration of the franchisee's inventory, supplies, equipment, fixtures, and furnishings. Personalized materials which have no value to the franchisor and inventory, supplies, equipment, fixtures, and furnishings not reasonably required in the conduct of the franchise business are not subject to compensation. This subsection applies only if: (i) The term of the franchise is less than 5 years and (ii) the franchisee is prohibited by the franchise or other agreement from continuing to conduct substantially the same business under another trademark, service mark, trade name, logotype, advertising, or other commercial symbol in the same area subsequent to the expiration of the franchise or the franchisee does not receive at least 6 months advance notice of franchisor's intent not to renew the franchise.
- (e) A provision that permits the franchisor to refuse to renew a franchise on terms generally available to other franchisees of the same class or type under similar circumstances. This section does not require a renewal provision.
- (f) A provision requiring that arbitration or litigation be conducted outside this state. This shall not preclude the franchisee from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.
- (g) A provision which permits a franchisor to refuse to permit a transfer of ownership of a franchise, except for good cause. This subdivision does not prevent a franchisor from exercising a right of first refusal to purchase the franchise. Good cause shall include, but is not limited to:
  - a. The failure of the proposed transferee to meet the franchisor's then current reasonable qualifications or standards.

b. The fact that the proposed transferee is a competitor of the franchisor or subfranchisor.

c. The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.

d. The failure of the franchisee or proposed transferee to pay any sums owing to the franchisor or to cure any default in the franchise agreement existing at the time of the proposed transfer.

(h) A provision that requires the franchisee to resell to the franchisor items that are not uniquely identified with the franchisor. This subdivision does not prohibit a provision that grants to a franchisor a right of first refusal to purchase the assets of a franchise on the same terms and conditions as a bona fide third party willing and able to purchase those assets, nor does this subdivision prohibit a provision that grants the franchisor the right to acquire the assets of a franchise for the market or appraised value of such assets if the franchisee has breached the lawful provisions of the franchise agreement and has failed to cure the breach in the manner provided in subdivision (c).

(i) A provision which permits the franchisor to directly or indirectly convey, assign, or otherwise transfer its obligations to fulfill contractual obligations to the franchisee unless provision has been made for providing the required contractual services.

**THE FACT THAT THERE IS A NOTICE OF THIS OFFERING ON FILE WITH THE ATTORNEY GENERAL DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION, OR ENDORSEMENT BY THE ATTORNEY GENERAL.**

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**Exhibits:**

- Exhibit “A” State Agencies and Administrators and Agents for Service of Process
- Exhibit “B” Franchise Agreement
- Exhibit “C” Area Development Agreement
- Exhibit “D” Table of Contents of Confidential Operating Manual
- Exhibit “E” State Disclosure Addenda and Agreement Riders
- Exhibit “F” Franchisees as of January 1, 2025
- Exhibit “F-1” Stores Not Yet Open as of January 1, 2025
- Exhibit “F-2” Former Franchisees
- Exhibit “G” Financial Statements
- Exhibit “H” Release
- Exhibit “I” Receipts

STATE LAW MIGHT REQUIRE ADDITIONAL DISCLOSURES RELATED TO THE INFORMATION CONTAINED IN THIS DISCLOSURE DOCUMENT, AND MIGHT REQUIRE A RIDER TO THE FRANCHISE AGREEMENT AND/OR AREA DEVELOPMENT AGREEMENT, THESE ADDITIONAL DISCLOSURES AND RIDERS, IF ANY, APPEAR IN EXHIBIT “E”.

## **ITEM 1**

### **THE FRANCHISOR, ANY PARENTS, PREDECESSORS AND AFFILIATES**

#### **The Franchisor, any Parents, Predecessors and Affiliates**

To simplify the language in this Disclosure Document, “Shakey’s”, “we”, “us” or “our”, mean **Shakey’s USA, Inc.**, the Franchisor. “You” means the person, or business entity (including corporation, partnership, limited liability company or other legal entity buying the franchise. If you are a business entity, “you” also includes each partner, shareholder, member or other owner of that entity, all of whom must sign our Continuing Guaranty, which means that all of the provisions of the Franchise Agreement attached as Exhibit “B” to this Disclosure Document, also will apply to them. You and Shakey’s will occasionally be referred to together as “the parties.”

We were originally incorporated under the laws of the State of Delaware on November 15, 2004. We do business under the name “Shakey’s”, “Shakey’s Pizza Parlor” and “Shakey’s Pizza Restaurant” and maintain our principal business address at 2200 West Valley Boulevard, Alhambra, California 91803. Our agents for service of process are disclosed in Exhibit “A”.

A predecessor of ours, Shakey’s Restaurant Franchising Company, LLC, a California limited liability company (“SRFC”), acquired the assets of Shakey’s Incorporated (“SINC”), a Delaware corporation through an Asset Purchase Agreement as of June 30, 2004. SINC began offering franchises for Shakey’s Restaurants in 1958.

Our parent is The Jacmar Companies, a California corporation formed on February 1, 1973, also located at our address (“Jacmar”). Jacmar is also our affiliate. Jacmar does not offer franchises in any line of business.

We do not operate businesses of the type being offered and do not offer franchises in other lines of business. However, we are exploring the distribution of frozen pizza under the “Shakey’s” Mark through non-restaurant outlets, and we may engage in other business activities in the pizza and food categories.

SCO, LLC, a California limited liability company, formed August 30, 2004, and our wholly owned subsidiary, operates 28 Shakey’s Restaurants. We consider these 28 Shakey’s Restaurants to be “Company-owned” Restaurants.

#### **Business of the Franchisor and the Franchise Offered**

We grant franchises for the Shakey’s Pizza Parlor concept (“Shakey’s Restaurants”), using the name “Shakey’s” and other trademarks, service marks and logos (the “Marks”) in accordance with the terms of our Franchise Agreement (Exhibit B). We currently have franchised Shakey’s Restaurants in operation only in the United States. We also offer to qualified persons (“Developers”), rights to develop and operate a minimum of 3 Shakey’s Restaurants in a defined geographic area under an Area Development Agreement (“Area Agreement”) attached as Exhibit C, to this Disclosure Document. Developers must sign a separate Franchise Agreement under the then current form for each Shakey’s Restaurant opened under an Area Agreement.

A Shakey’s Restaurant offers our traditional thin, or our pan or gourmet pizzas famous Mojo® potatoes, golden fried chicken, salad bars and beverages, including beer and wine, where permitted. The Shakey’s Restaurants located in Southern California offer our famous “Bunch of Lunch®,” a buffet meal at lunch. Most Shakey’s Restaurants also feature redemption game rooms and certain Shakey’s Restaurants offer delivery services.

#### **Regulation**

Shakey’s Restaurants are subject to local and state health and sanitation codes and regulations relating to food preparation and the food service business. Also, because Shakey’s Restaurants may offer beer and wine, you will be subject to liquor laws governing the sale of alcoholic beverages. You should contact your local and state authorities for detailed information about these requirements. Shakey’s Restaurants may also be subject to rules

of the United States Department of Agriculture (“USDA”), concerning food storage, preparation and handling. You should contact the USDA and obtain advice concerning the applicability of its rules to the operation of your Restaurant. There may be other laws applicable to businesses generally that will impact your operation. You should contact your attorney or governmental agencies for information.

### **Competition**

Shakey’s Restaurants compete with a number of quick service concepts, regardless of their specific product offerings. The market for quick service restaurants is well developed. We believe that Shakey’s Restaurants provide a family dining experience through a product offering of quality food, at exceptional value, in a fun and entertaining environment. Shakey’s Restaurants serve pizza with 2 types of crust, chicken, MOJO® potatoes, salad, and Bunch of Lunch®; and can be situated in venues ranging from common seating food court encompassing 2,000 square feet to free standing buildings or strip center locations of 5,500 square feet.

The restaurant industry is highly competitive. There are many different segments within the restaurant industry, which are distinguished on the type of food, food quality, service, location, associated price-to-value relationship and overall dining experience. Shakey’s is positioned in the family fast casual dining segment based on the menu, flexible dining hours, family-friendly atmosphere and value pricing. Shakey’s competes indirectly with many restaurants in both the full service and fast food segments. Competition with these other entities is more than just for customers. Shakey’s competes with both restaurants and retail establishments for site locations and restaurant-level employees. In addition to broad competition among all restaurant segments, Shakey’s faces a number of competitors in the pizza segment. However, Shakey’s is not precluded from offering both pizza and chicken on its menu, as are some competitors.

## **ITEM 2 BUSINESS EXPERIENCE**

### **Chairwoman: Rebecca M. Snyder**

Ms. Snyder has been our Chairwoman since November 2021. She has also been the owner of Rose Snyder Jacobs, LLP a public accounting firm in Encino, California since September 2003.

### **Director: John Tilley**

Mr. Tilley joined us as a Director in February, 2023. Also, he has been the President and Chief Executive Officer of The Jacmar Companies, a holding company in Alhambra, California since 2017.

### **Director: Nadine Tilley**

Ms. Tilley joined us as a Director in October 2022. Prior to that, she has been a homemaker since 2017.

### **Senior Vice President, Franchising: Sonia Barajas-Najera**

Ms. Barajas-Najera joined us in her present capacity on January 1, 2008 and as of January 1, 2012, also oversees franchise development.

### **President and Chief Operations Officer: Michael Grundgeiger**

Mr. Grundgeiger assumed his present position on February 2023. He was the Senior Vice President of Operations from January 1, 2017 – January 2023. Prior to that, from July 1, 2013 until December 31, 2016, he served as our Vice President of Operations. He joined us as Director of Operations in October 2012. From August 2006 until October 2012, Mr. Grundgeiger was Vice President of Operations, Real Mex Restaurants, Inc., Union City, California.

**Senior Vice President of Marketing: Cynthia G. Staats**

Ms. Staats assumed her present position on January 6, 2015. From January 2011, until January 2015, she was Senior Director of Marketing. Ms. Staats joined us as Director of Marketing on January 1, 2008.

**Senior Vice President, Human Resources and Organizational Development: William D. Graham**

Mr. Graham joined us on March 28, 2016 as our Vice President, Human Resources. Prior to joining us, he was the Vice President, Human Resources for ImpreMedia a media company in Los Angeles, California from July 1989 until June, 2015.

**Chief Financial Officer: David Ziebarth**

Mr. Ziebarth joined us as our Chief Financial Officer in November 2022. Prior to that, from June 2016 until December 2022, he was the Chief Financial Officer of BW Supplies, LLC, a day spa company in Inglewood, California.

**Director of Operations: Jorge Calderon**

Mr. Calderon joined us in 2013 as a Regional Manager and has been our Director of Operations since March 2023.

**Training Manager: Hector Rosales**

Mr. Rosales has been our Training Manager since January 2024. Prior to that, from October 2019 until January 2024, he served as a Shakey's restaurant manager in Alhambra, California. From March 2014 until October 2019 he served as General Manager of a Pizza Hut restaurant in Orange, California.

**ITEM 3  
LITIGATION**

No litigation is required to be disclosed in this Item.

**ITEM 4  
BANKRUPTCY**

No bankruptcies are required to be disclosed in this Item.

**ITEM 5  
INITIAL FEE**

The initial franchise fee for a Shakey's Restaurant, is \$35,000, payable in a lump sum when you sign the Franchise Agreement.

The development fee is \$15,000 for each Restaurant to be developed (a minimum of 3), pursuant to the terms of the Area Agreement. If you are in substantial compliance with the Area Agreement, Shakey's will credit \$15,000 towards the initial franchise fee that you must pay for each Franchise Agreement you sign under the Area Agreement. At the time you sign the Area Agreement, you will pay the initial franchise fee of \$35,000 for the first Restaurant to be developed, plus the development fee of \$15,000 for each of the remaining Restaurants (a minimum of 2) to be opened under the Area Agreement.

The franchise fee and development fee are uniform for all franchisees/developers currently acquiring franchise rights or development rights. The franchise fee and development fee are non-refundable.

**ITEM 6  
OTHER FEES <sup>(1)</sup>**

**Franchise Agreement**

<b>TYPE OF FEE</b>	<b>AMOUNT</b>	<b>DUE DATE</b>	<b>REMARKS</b>
Royalty	5% of Gross Sales	Payable using electronic funds transfer, on Friday for the week ending on the preceding Sunday	“Gross Sales” includes all revenue from all sales of the Restaurant, except sales or service taxes
Advertising Fund (2)	Not to exceed 5% of Gross Sales; presently 4% of Gross Sales	Payable using electronic funds transfer, by the 20th day of each month for the preceding calendar month	90 days prior notice for increase in Advertising Fund contribution
Technology Fee	\$200 per month	Same as Royalty	Payable upon notice to you.
Local Advertising	Minimum of 1% of Gross Sales	Monthly	Amounts paid to third parties to promote your Restaurant in addition to amounts paid to Advertising Fund and Advertising Cooperatives
Late Opening Fees	\$1,050 per week	Paid in the same manner as the Royalty, above	Only payable if your Restaurant does not open within 210 days after you sign your lease or otherwise acquire the site
Fees for Product/Supplier Approval	Cost of the test, maximum \$10,000	Upon invoice	Due only if you request our approval of a product or supplier
Interest on Late Payments	1.5% per month or the maximum rate permitted by law, whichever is less	Upon invoice	Interest is paid on any amounts past due and owing to Shakey’s or its affiliates
Transfer	Maximum of \$5,000	Upon submission of application for approval	There are other requirements for a transfer - \$2,500 of the transfer fee is non-refundable
Audit Expenses	Cost of audit, maximum \$5,000 (exclusive of attorneys’ and accountants’ fees)	Upon invoice	Due only if you fail to report information on time or underreport Gross Sales by 5% or more
Liquidated Damages	Royalties for the unexpired term of Franchise Agreement	Upon early termination of Franchise Agreement	Due only if Franchise Agreement is terminated before its term expires – See Item 17(i).
Renewal	50% of then current initial franchise fee	Upon election to acquire successor franchise	You must sign the then current form of the franchise agreement and satisfy other conditions.
Indemnification	You will pay Shakey’s the amounts it incurs arising from claims involving your operation of your Restaurant	On demand	You must defend, indemnify and hold Shakey’s harmless. Includes all claims and costs of defense

TYPE OF FEE	AMOUNT	DUE DATE	REMARKS
Attorneys' Fees and Costs	Amount incurred by Shakey's in court proceeding between us	On demand after conclusion of court proceeding	You pay us if we prevail in a court proceeding
Additional Training	Then current rates determined by Shakey's. Presently \$1,000 per day	On demand	Training provided at your request, conducted at your Restaurant, for a period we both determine. May cover refresher training.
Offering Fee	\$10,000	Upon seeking consent	Payable if you want to make a private or public offering of your securities
Manual	\$500	Upon invoice	Charged only if you lose the Manual

### Area Agreement

TYPE OF FEE	AMOUNT	DUE DATE	REMARKS
Indemnification	You will pay Shakey's the amounts it incurs arising from any claims stemming from your business under Area Agreement	On demand	You must defend, indemnify and hold Shakey's harmless. Includes all claims and costs of defense
Transfer fee	\$5,000	Before effective transfer of Area Agreement	There are other requirements - \$2,500 of the transfer fee is non-refundable
Attorneys' Fees and Costs	Amount incurred by Shakey's in court proceeding between us	On demand after conclusion of court proceeding	You pay us if we prevail in a court proceeding

### NOTES:

(1) Unless otherwise noted, all fees are uniform, non-refundable and are imposed and collected by, and payable to us. Exiting franchisees' franchise agreements may not require the same payments or rates of payment as your agreement.

(2) Any Shakey's Restaurants that we or our affiliates own will participate in and contribute to the cooperatives on the same basis as franchised Shakey's Restaurants. Cooperatives operate on a one-vote-per-one store basis, regardless of the number of units operated by a single owner.

**ITEM 7  
ESTIMATED INITIAL INVESTMENT**

**Franchise Agreement**

**YOUR ESTIMATED INITIAL INVESTMENT**

<b>TYPE OF EXPENDITURE</b>	<b>AMOUNT</b>	<b>METHOD OF PAYMENT</b>	<b>WHEN DUE</b>	<b>TO WHOM PAYMENT IS TO BE MADE</b>
Initial Franchise Fee	\$35,000	Lump sum	Upon signing of Franchise Agreement	Us
Insurance (See Item 8)	\$3,000 - \$15,000	As arranged	Before opening	Insurance carriers
Architectural & Engineering (1)	\$20,000 - \$30,000	As arranged	As incurred	Architectural and engineering firms
Attorneys & Accountants (2)	\$5,000 - \$10,000	As arranged	As incurred	Attorneys and accountants
Inventory & Supplies (3)	\$10,000 - \$20,000	As arranged	As incurred	Suppliers
Smallwares	\$25,000 - \$35,000	As arranged	As incurred	Suppliers
Travel and Living Expenses While Training (4)	\$3,000 - \$12,500	As arranged	As incurred	Third parties
Licenses And Permits (5)	\$5,000 - \$15,000	As arranged	As incurred	Third parties
Real Estate And Lease Deposits (6)	\$10,000 - \$25,000	As arranged	As incurred	Lessor
Utility Fees And Deposits (7)	\$3,000 - \$7,000	As arranged	As incurred	Third parties
Equipment, Furniture, Décor And Signage (8)	\$400,000 - \$750,000	As arranged	As incurred	Suppliers
Construction Of Leasehold Improvements (9)	\$715,000 - \$2,200,000	As arranged	As incurred	Contractors
Games (10)	\$0 - \$300,000	As arranged	As incurred	Third parties
Grand Opening Advertising (11)	\$25,000	As arranged	As incurred	Third parties
Additional Funds – 3 Months (12)	\$20,000 - \$50,000	As arranged	As incurred	Employees, suppliers, utilities, lessor, etc.
<b>Total (13)</b>	<b>\$1,279,000 - \$3,529,500</b>			

Payments to us are non-refundable. Payments to third parties may be refundable depending on the policies of the individual third-party.

## NOTES:

1. You must hire a licensed, qualified architect to adopt the standard plans and specifications to your site and to local and state laws, regulations, and ordinances.
2. You may require accounting and legal services to review the Franchise Agreement, Area Agreement and related items in establishing the Restaurant (e.g., lease negotiations, financing and tax planning). The accounting and legal fees will vary depending upon factors such as locality, the extent of assistance you require, and other local circumstances (e.g., zoning application, liquor licenses, game licenses).
3. Inventory includes the initial purchase of food and beverage products and paper goods required to begin operation of the Restaurant. The initial purchase will vary based on size and anticipated volume of the Restaurant.
4. This estimate is based on training for 4 individuals. The amount may vary depending upon whether hotel accommodations and transportation are necessary.
5. This estimate includes business licenses, beverage licenses and other fees that local or state agencies require of you to establish a Restaurant. This estimate does not include unusually high or extraordinary special permits, licenses or local impact or environmental fees.
6. The land and building required for the Restaurant may require a lease deposit of approximately 2 months' rent. Lease rates may range from \$3.00 to \$10.00 per square foot or higher.
7. The estimate includes utility deposits and miscellaneous pre-opening utility-related fees and expenses, excluding extraordinary special sewage or utility connection fees or assessments. These costs could vary significantly depending on the area in which your Restaurant is located.
8. Equipment can include pizza ovens, hoods, gas stoves, proofing cabinets, mixers, fryers, menus, display units, walk-in coolers, C-vap holding cabinets and freezers, icemakers, beer and soft drink dispensers, makeup tables, dishwashing equipment, buffet lines, dough sheeter, carpeting, holding units, signage, menu boards and POS systems. The required furniture includes tables, chairs, booths, and decor and fixture items. Investment in equipment and furniture varies depending on the size of the Restaurant and whether you use new or used equipment. Converting an existing restaurant space can result in substantial savings if existing equipment can be utilized.
9. We assume a building size of 2,000 square feet (for a food court) to 5,500 square feet (for a free-standing or strip center unit), but the estimate does not take into consideration that you may negotiate for allowances from the lessor for fixtures, furniture, equipment or tenant improvements, which would reduce the amount of your investment.
  - (a) Newly Constructed Freestanding Shakey's Restaurant. The lot size for a newly-constructed freestanding building may range from 30,000 square feet to 45,000 square feet, depending on the size of the Restaurant to be constructed, local building requirements, and parking requirements. Land costs may vary depending on the market and site location. Land maybe leased rather than purchased. Building costs in California for a freestanding, 5,500 square foot Restaurant, are about \$350 to \$400 per square foot (or approximately \$1,925,000 to \$2,200,000).
  - (b) Strip Shopping Center Shell Space for a Shakey's Restaurant. Leasehold improvements in a new, unfinished shell space in a strip shopping center will cost approximately \$175 to \$225 per square foot (or approximately \$962,500 to \$1,237,500 for 5,500 square feet),

excluding fixtures, furniture and equipment and any tenant improvement allowances the lessor provides. Construction costs vary depending on the geographic area and include interior leasehold improvements, interior finishes, HVAC, electrical and plumbing. Landlord-provided "Tenant Improvement Allowances" may range from \$10 to \$15 per square foot and lessen gross construction or leasehold improvement expenses. These totals do not consider possible landlord contributions.

- (c) Conversion of Existing Building to Meet Specifications for a Shakey's Restaurant. A conversion will cost about \$130-\$200 per square foot (or approximately \$715,000 to \$1,100,000 for a 5,500 square feet building). Conversion costs may vary depending on the geographic area and previous use of the space. Restaurant conversions may result in significant savings over new construction. Conversion costs include exterior and interior finishes, HVAC, electrical and plumbing modifications.
  - (d) Construction costs vary, depending on the geographic area and site preparation necessary. Construction costs include interior and exterior finishes, HVAC, electrical and plumbing.
  - (e) The amounts in the table assume you will be leasing the property. If you want to own the real estate, you should expect to pay \$700,000 to \$3,500,000 for the real estate purchase. You should realize that these figures are estimates only and that the cost of land and any improvements will vary substantially depending upon local market conditions.
  - (f) Food court locations generally refer to Regional Malls with common seating. This smaller square foot facility uses a scaled down equipment package and typically fewer leasehold improvements in comparison to the larger restaurants. Seating is "in common" with other food court tenants and is expensed as part of the Common Area Maintenance (CAM).
10. The estimate assumes you will purchase your game machines, which includes the cost for 15 games. The number of machines you actually place in the unit will vary depending on the size and configuration of the unit. Costs of leasing would be substantially lower.
  11. You must conduct a grand opening advertising and promotional program in the form we designate, which may include direct mail advertising and, if we require, the use of advertising studios and/or an agency that we designate.
  12. Additional funds are the amounts you will need to pay for other pre-opening expenses and operating expenses during the first 3 months of operation (the "initial period"). Additional funds include rent, utilities, grand opening and other advertising and promotion, miscellaneous expenses, payroll, taxes and benefits for employees. It does not include an owner's draw. These figures are estimates and Shakey's cannot guarantee that you will not incur additional expenses. Your costs will depend on factors such as your ability to operate in conformance with Shakey's recommended methods of doing business, the demographics and economic conditions in the area in which your Restaurant is located, competition, the sales levels reached by your Restaurant during the initial period and whether you incur unforeseen expenses. Other expenses may be incurred which are not identified.
  13. The amounts shown in this table are based on over 40 years of experience in operating and franchising Shakey's Restaurants (See Item 1) and are the best estimates of the amounts you will spend for the purposes indicated. The actual costs for the Restaurant will vary based upon factors such as its location and size; the number and experience of your personnel; city, county and state

zoning and other codes; your management skills, experience and business acumen; local economic conditions; prevailing wage rates; competition; and demographics. We do not offer direct or indirect financing to franchisees for any items.

### **Area Agreement**

If you sign an Area Agreement, then, you must pay the initial franchise fee for the first Restaurant to be developed, plus, the development fee of \$15,000 for each of the remaining Restaurants to be developed (a minimum of 2). None of these amounts is refundable. Except for these fees and approximately \$5,000 in working capital that you initially might need to begin looking for acceptable sites, no additional investment is required to begin operating under the Area Agreement.

## **ITEM 8 RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES**

### **Lease**

We must approve the terms of any lease for the premises of your Restaurant. The lease must contain certain terms and conditions, as stated in Section 3.A of the Franchise Agreement.

### **Fixtures, Furnishings, Signs, Equipment and Products**

You must purchase or lease all fixtures, furnishings, signs, equipment, point of sale/computer system (see more detailed information in Item 11), products, ingredients and paper goods in accordance with our standards and specifications and, if we require, only from suppliers designated or approved by us (which may include or be limited to us and/or our affiliates). Our standards and specifications may include brand names and minimum standards for performance, warranties, design, appearance and other qualities. We will furnish other standards and specifications to you in our confidential manual ("Manual") or otherwise in writing. The exclusive soft drink vendor for all Shakey's Restaurants, including your Restaurant, is currently Pepsi Cola.

You must buy your full requirement of the proprietary spice blend and mixes used in the preparation of your pizza, pasta and chicken products from manufacturers, distributors, suppliers, brokers, jobbers or purchasing agents licensed by us. We may require supplies be purchased exclusively from us or from approved suppliers or distributors. You can purchase appropriate goods for use in the normal operation of your Restaurant from these licensed suppliers. You cannot contract with an alternate supplier without our approval. To obtain approval as a supplier of a particular item, the prospective supplier must demonstrate to our continuing satisfaction that it has the ability to meet our standards and specifications for the item, possesses adequate quality control, and has the capacity to supply your needs properly and reliably. Approval by us can take anywhere from 30 to 90 days after request. We issue standards and specifications to franchisees through the Manual, the Approved Brands List, the Product Specifications Manual, and through company bulletins. Suppliers we license are notified individually of the specifications and modifications relevant to them. Suppliers must submit product samples to us for comparisons to our standards before receiving approval as an authorized supplier. Approval of suppliers is revoked in writing, generally for failure of the supplier to comply with the provisions of its contract with us.

You have the right to recommend additional suppliers for licensing. We will consider licensing any recommended supplier who is financially sound and is operationally capable of producing or providing the specific product(s) according to our standards and specifications. We reserve the right to charge licensing fees and obtain other payments from these suppliers.

If you propose to use any brand and/or supplier not then approved, you must first notify us and submit sufficient information, specifications and samples concerning the brand and/or supplier for us, through a committee composed of franchisees and our personnel, to determine whether the proposed brand complies with

our specifications and standards and/or the supplier meets our approved supplier criteria, which are available to the franchisees. Fees may be charged in connection with travel and testing involved in the approval process, which can take from 30 to 90 days after a request is received. We periodically may prescribe procedures for submitting requests for approved brands or suppliers and obligations which approved suppliers must assume. We may impose limits on the number of suppliers and/or brands for any of the items you use to operate your Restaurant.

We negotiate purchase agreements with suppliers, including price terms, for the benefit of franchisees. We have implemented a purchasing program which is intended to bring consistency and savings to the products franchisees use. You are encouraged, but not required, to participate in the purchasing program. There are currently no purchasing or distribution cooperatives. We do not provide material benefits to a franchisee (for example, renewal or granting additional franchises) based on a franchisee's use of designated or approved sources. We may receive rebates from some of the approved or designated suppliers in the purchasing program, however, as of the date of this Disclosure Document, we have not. Franchisees will receive a direct marketing allowance (subtracted from the cost of the product at the distributor level, so that Restaurant invoice reflects only the net product cost) based on the usage of Pepsi products. Participating franchisees will receive the full benefit of our negotiated vendor allowances. Presently, we do not nor does any affiliate receive rebates or other consideration for franchisee purchases.

Required purchases and leases are those made from designated or approved suppliers or in accordance with our specifications. We estimate that the cost of your required purchases and leases will be between 30% and 35% of all purchases and leases of goods and services to establish the franchise if you are building a new facility for your Restaurant. If you are remodeling an existing facility, this estimate is between 40% and 45% of all purchases and leases. We estimate that the cost of your ongoing required purchases and leases will be between 55% to 60% of all purchases and leases in operating the franchise.

### Insurance

You must buy and maintain insurance for the Restaurant throughout the term of the Franchise Agreement and/or Area Agreement. The insurance must be written by an insurance company we approve, for the types and amounts of coverage we require (which may periodically change), and must protect us, you, and your officers, directors, partners, members and employees. The currently required insurance is: personal injury, products and property damage liability, Dram Shop coverage with limits of at least \$2,000,000; at least \$2,000,000 individual personal liability and at least \$2,000,000 property damage liability; at least \$2,000,000 non-owned auto coverage, if you offer delivery services; workers' and unemployment compensation insurance; as well as other insurance as may be required by statute or rule of the state in which the Restaurant is located.

### Area Agreement

Except as described in this paragraph, the Area Agreement does not require you to buy or lease from us or designated or approved suppliers, or under our specifications, any goods, services supplies, fixtures, computer hardware and software, or real estate. However, you must follow our requirements under the Franchise Agreement for each Restaurant you develop. For each site at which you propose to locate a Restaurant, you must send us a complete site report and, if we approve the site, obtain possession of the site under a lease that we also approve.

**ITEM 9**  
**FRANCHISEE'S OBLIGATIONS**

This table lists your principal obligations under the franchise 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. For purposes of this table, the sections referred to are those in the franchise agreement unless otherwise noted.

OBLIGATION	SECTION IN AGREEMENT	DISCLOSURE DOCUMENT ITEM
a. Site Selection And Acquisition/Lease	Sections 3.A and 3.B of Franchise Agreement. Section 4 of Area Agreement.	Items 8 and 11
b. Pre-Opening Purchases/Leases	Section 3.D	Items 7 and 8
c. Site Development And Other Pre-Opening Requirements	Section 3.C of Franchise Agreement. Section 3.C of Area Agreement.	Items 7, 8 and 11
d. Initial And On-Going Training	Sections 4.A and 4.B of Franchise Agreement. Section 9.B of Area Agreement.	Items 7 and 11
e. Opening	Section 3.C	Item 11
f. Fees	Section 6 of Franchise Agreement. Section 5 of Area Agreement.	Items 5 and 6
g. Compliance With Standards And Policies/Manual	Sections 4.C and 9	Items 8, 11 and 16
h. Trademark And Proprietary Information	Sections 5 and 7.A of Franchise Agreement. Sections 6 and 8 of Area Agreement.	Items 13 and 14
i. Restrictions On Products/Services Offered	Sections 3.D, 9.D and 9.E	Items 8 and 16
j. Warranty And Customer Service Requirements	Section 9.F	Item 11
k. Territorial Development And Sales Quotas	Section 3.C of Area Agreement.	Item 12
l. Ongoing Product/Service Purchases	Sections 9.D and 9.E	Item 8
m. Maintenance, Appearance And Remodeling Requirements	Sections 9.A, 9.B and 9.C	Item 8
n. Insurance	Section 9.H of Franchise Agreement. Section 9.E of Area Agreement.	Items 6, 7 and 8
o. Advertising	Section 10 of Franchise Agreement. Section 9.G of Area Agreement.	Items 6, 7 and 11
p. Indemnification	Section 17.B of Franchise Agreement. Section 13.B of Area Agreement.	Item 6
q. Owner's Participation Management/Staffing	Sections 8.B and 9.G of Franchise Agreement. Sections 9.A, 9.B and 9.C of Area Agreement.	Item 15
r. Records/Reports	Section 11 of Franchise Agreement. Section 9.F of Area Agreement.	Item 6
s. Inspections/Audits	Section 12	Item 6
t. Transfer	Sections 13 of Franchise Agreement. Section 11 of Area Agreement.	Item 17

OBLIGATION	SECTION IN AGREEMENT	DISCLOSURE DOCUMENT ITEM
u. Renewal	Section 15	Item 17
v. Post-Termination Obligations	Section 16 of Franchise Agreement. Section 12 of Area Agreement.	Item 17
w. Non-Competition Covenant	Sections 7.B and 16.C of Franchise Agreement. Sections 7 and 12.D of Area Agreement.	Item 17
x. Dispute Resolution	Section 18 of Franchise Agreement. Section 14 of Area Agreement.	Item 17
y. Other: Guaranty of Franchisee's Obligations	Section 8 of Franchise Agreement. Section 2 of Area Agreement	Item 15

**NOTE:**

1. Each individual who owns an interest in a franchisee that is a corporation, partnership or limited liability company, must sign an agreement to discharge all obligations of the “franchisee” and “developer” under the Franchise Agreement and Area Agreement (Exhibits “C-1” and “E”) respectively, and an agreement to maintain confidentiality and not to compete (Exhibits “C-2” and “F”) respectively, under those Agreements.

**ITEM 10  
FINANCING**

We do not now, nor do we intend to, offer, directly or indirectly, any arrangements for financing your initial investment or the operation of the franchise. We are unable to estimate whether you will be able to obtain financing for all or any part of your investment and, if you are able to obtain financing, we cannot predict the terms of that financing. We do not receive payment from any person or persons for obtaining or placing financing.

In order to secure your prompt performance of your obligations under the Franchise Agreement, you grant us a security interest in the franchise and the equipment, fixtures and improvements at your Restaurant. You will execute our standard Security Agreement, attached to the Franchise Agreement as Exhibit “F”, in order to perfect this security interest. You will also execute a standard UCC-1 Financing Statement, a sample being attached to the Franchise Agreement as Exhibit “F-1”. If you default under the terms of the Franchise Agreement, by failing to make your Royalty or Advertising Fund payment on time, we have the right to foreclose on the equipment, fixtures and improvements at the Restaurant.

No contract or other instrument between us contains any waiver of defenses or similar provisions. We do not have any past or present practice, or any intent, to sell, assign, or discount to a third party, in whole or in part, any note, contract, or other instrument executed by you. We do not guarantee any note, lease or obligation of yours.

**ITEM 11  
FRANCHISOR'S ASSISTANCE, ADVERTISING,  
COMPUTER SYSTEMS AND TRAINING**

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

**Pre-opening Obligations**

- (1) Designate your Protected Area and your Delivery Area (Franchise Agreement-Sections 2.B and 2.C).

- (2) Provide you with the following site selection assistance: (a) site selection guidelines and, as you may request, a reasonable amount of consultation with respect to the guidelines; and (b) the level of on-site evaluation as we may deem advisable as part of our evaluation of your request for site approval (Franchise Agreement-Section 3; Area Agreement-Section 4).
- (3) Advise you in writing within 45 days after receipt of your request for site approval whether we approve or disapprove the site (Franchise Agreement-Section 3.A; Area Agreement-Section 4(b)).

You must, within 45 days of signing the Franchise Agreement, select the site for your Restaurant, which is subject to our approval. We have 45 days from receipt of your suggested site to approve or reject the proposed site. Site selection criteria include the size of the proposed site, the proposed lease terms (if any), the location and neighborhood, neighborhood shopping patterns, growth trends, traffic patterns, site access, site visibility, population and population density. If we and you cannot agree on a site within the time specified, we can elect to terminate the Franchise Agreement. You must obtain possession of the premises (under a lease approved by Shakey's or otherwise) within 90 days after we approve the site. You must complete construction of the Restaurant within 180 days of the date on which you obtain possession of the site.

We estimate that it will take between 12 and 18 months from the signing of the Franchise Agreement to the opening of a freestanding unit and 6 to 12 months for a conversion unit. The factors that affect this time include: your ability to find a site and negotiate a lease; obtain financing; procure building permits and licenses; secure required zoning and local ordinance approval; weather conditions; building materials or other shortages; and delays in either the construction and development of the Restaurant or the installation of equipment, fixtures and signs (Franchise Agreement – Sections 3.A to 3.C).

- (4) Furnish you with prototype plans and specifications for your Restaurant. You must modify these plans to suit the shape and size of the location. You must ensure that these plans and specifications comply with applicable ordinances, building codes and permit requirements and with lease requirements and restrictions. You must submit any modified plans to us for our approval before developing the site (Franchise Agreement-Section 3.C).
- (5) Assist you in preparing development guidelines as we deem appropriate and (at our option) periodically inspect the site during development (Franchise Agreement-Section 3.C).
- (6) Provide an initial management training program, the details of which are described later in this Item 11 (Franchise Agreement-Section 4.A).
- (7) Provide you with on-site assistance, for a period of no less than 7 days, some of which may be pre-opening and some after the Restaurant opens to the public. We may, upon your request and at your cost, provide you with additional assistance, as we deem appropriate in light of your needs and the availability of our personnel (Franchise Agreement-Section 3.E).
- (8) Lend you 1 copy of the confidential and proprietary Manual, which contains information and knowledge that is necessary and material to the System. The Manual remains our property. We may revise the contents of the Manual and you must comply with each new or changed section (Franchise Agreement-Section 4.C). The Table of Contents of the Manual is attached to this Disclosure Document as Exhibit D and the Manual contains 396 pages.
- (9) Determine your Development Schedule and Development Area if you sign the Area Agreement. We also will review any site you propose and notify you of its approval or disapproval within 45 days after receiving all requested information (Area Agreement-Section 4) (See Item 12).

## **After Restaurant Opens**

(1) Provide information on development of new products, techniques and procedures, as we (at our option), periodically develop them (Franchise Agreement-Sections 4.A, 4.B and 9.E).

(2) Provide periodic advice and consultation to you concerning the operation of the Restaurant. We may provide these services through visits by representatives to the Restaurant or your offices, the distribution of printed or videotaped material, meetings or seminars, telephone communications and other communications (Franchise Agreement-Section 4.B).

(3) Conduct inspections of the Restaurant and an evaluation of the products sold and services rendered (Franchise Agreement-Section 12.A).

(4) Provide other special assistance, at your request, for which we reserve the right to require you to pay per diem fees and charges which we periodically establish (Franchise Agreement-Section 4.B).

(5) Collect, administer and spend for advertising and promotion purposes, monies paid by franchisees and company-operated Shakey's Restaurants into the Advertising Fund and direct monies to advertising cooperatives, if required by any agreement then in effect (Franchise Agreement-Section 10.B and Section 10.D).

## **Advertising**

### **National Advertising**

We have established and administer the Shakey's USA New National Advertising Fund, LLC ("Advertising Fund") for the creation and development of advertising and related programs and materials for all franchisees not participating in the Fund (see below). The Advertising Fund is administered by us or our designee. You must contribute to the Advertising Fund, an amount not to exceed 5% of Gross Sales, as we designate from time to time. Before any increase in the amount of the Advertising Fund contribution becomes effective, we must give you 90 days written notice. Shakey's Restaurants owned by us and related companies will contribute to the Advertising Fund on the same basis. The services provided by the Advertising Fund and the Fund are similar.

We will retain and use a portion of each month's contributions to the Advertising Fund for the creative production of the advertising. The costs of creative production of television and radio commercials (including, associated talent and talent residual costs), newspaper advertising material, promotional materials, Internet marketing (including social media), audit and agency costs (including, administrative expenses charged by audit and agency personnel), freight, creative/marketing research fees and travel costs charged by audit and agency personnel, shall be charged against contributions to the Advertising Fund. We may also contribute a portion of Advertising Fund contributions to an advertising cooperative, if and when formed, for the area of dominant influence ("ADI"), as defined by the A.C. Nielsen Company, in which your Shakey's Restaurant will be located or used for additional advertising programs for such time period as we designate.

We or our designee, will seek advice of Shakey's Restaurant owners by formal (e.g. advertising advisory committee or other representative body) or informal means regarding creative concepts and media used for marketing programs financed by the Advertising Fund. However, final authority with respect to all marketing programs financed by the Advertising Fund rests with us or our designee, and we or our designee have sole discretion over all aspects of such programs, including national or regional media, creative concepts, materials, and endorsements. At present, the New National Advertising Committee consisting of 2 franchisee members and 2 Shakey's members, provides advice to the Advertising Fund. Shakey's has the right to change modify or dissolve any advertising council. The Advertising Fund is intended to maximize general recognition of the Marks and System for the benefit of all Shakey's Restaurants. We undertake no obligation to ensure that expenditures by the Advertising Fund are proportionate or equivalent to contributions to the Advertising Fund by franchisees or that

any Shakey's Restaurant will benefit directly or in proportion to its contribution(s) to the Advertising Fund, or at all, from the conduct of marketing programs or the placement of advertising. Except as expressly provided, we assume no direct or indirect liability or obligation to you with respect to the maintenance, direction or administration of the Advertising Fund. The Advertising Fund is not an asset of ours nor a trust, and we do not assume a fiduciary obligation to you for administering or controlling the Advertising Fund or for any other reason. We may furnish you with marketing, advertising and promotional materials at cost, plus any related administrative, shipping, handling and storage charges. If you are in default of any provision of the Franchise Agreement, marketing materials developed through the Advertising Fund will not be made available to you until the default is cured.

We or our designee will account for the Advertising Fund separately from our other funds. We will not use the Advertising Fund to defray our general operating expenses, except for reasonable salaries, administrative costs and overhead we or our designee incurs in activities reasonably related to the administration of the Advertising Fund and its marketing programs, including conducting market research, preparing advertising and marketing materials, and collecting and accounting for contributions to the Advertising Fund, travel and meetings. The Advertising Fund will not be used to solicit new franchisees. All interest earned on monies contributed to the Advertising Fund will be used to pay advertising costs of the Advertising Fund before the other assets of the Advertising Fund are expended. We or our designee may spend in any fiscal year an amount greater or less than the aggregate contributions of all Shakey's Restaurants to the Advertising Fund in that year. The Advertising Fund may borrow from us or other lenders to cover deficits or to invest any surplus for future use. We or our designee will prepare quarterly statements and upon written request, furnish to you an annual statement of monies collected and costs incurred by the Advertising Fund. The Advertising Fund is not audited. During the last fiscal year ending December 31, 2024, the Advertising Fund was used as follows: Production – 25%; Advertising – 35%, Advertising Agency – 30%; E-Club – 7% and Administration – 3%. Except as otherwise, expressly provided, we assume no direct or indirect liability or obligation for maintenance, direction or administration of the Advertising Fund.

We reserve the right, at any time and from time, to suspend contributions of one or more franchisees to, and operations of, the Advertising Fund for such periods that we determine to be appropriate and to terminate the Advertising Fund upon written notice to you. All unspent monies on the date of termination shall be distributed to us and franchisees in proportion to their respective contributions to the Advertising Fund during the preceding 12 month period. We have the right to reinstate the Advertising Fund upon the same terms and conditions upon 30 days' prior written notice to you.

You are not eligible to participate in the Fund and your advertising obligations and our responsibilities to you are only those as set out in the Franchise Agreement and as disclosed above.

#### Local Advertising

In addition to the Advertising Fund contribution, you must engage in local advertising on a monthly basis. You must expend at least 1% of Gross Sales on permitted local advertising expenditures. Certain expenditures, such as those for on-premises signs, discounts and premiums, do not qualify (See Franchise Agreement-Section 10.C).

For local advertising, you may use your own advertising material if you submit samples to us, in their proposed form, at least 2 weeks before their requested use. If we do not disapprove the material within 2 weeks after receiving all information we require, then the material is approved.

#### Advertising Cooperatives

We may establish an advertising cooperative in your local or regional area in which you must participate. Members will include other franchisees and Shakey's Restaurants owned by us or a related company, if any, in

your area. We have the power to require the cooperative to be formed, changed, dissolved or merged (Franchise Agreement-Section 10.D). We have the power to contribute a portion of funds you pay to the Advertising Fund to an advertising cooperative that we form or have formed for an ADI in which your Shakey's Restaurant is located. Voting will be on a one store one-vote basis. As of the date of this Disclosure Document, the only advertising cooperative in existence is the Southern California Pizza Advertising Association, Inc. ("SCPAA"), which covers the Los Angeles ADI. Exiting franchisees' franchise agreements may not require the same contributions as your agreement.

If you are in default of the Franchise Agreement, you will not have voting privileges in the advertising cooperative. At our discretion, your contributions that are directed to the advertising cooperative may be rebated back to you for use in conjunction with local marketing. The cooperative will prepare annual or periodic financial statements and these will be available to you upon request. The bylaws and/or other organizational documents will be available for your review upon request.

### **Los Angeles, California Restaurants**

If your Restaurant is within the Los Angeles ADI, then we may contribute some, none or all of your Advertising Fund contributions to the cooperative established for the Los Angeles ADI. You will cooperate with us and other franchisees in the Los Angeles ADI in joint advertising.

### **Grand Opening Advertising**

You will conduct a grand opening advertising and promotional program for the Restaurant which will take place on the date scheduled by you and approved by us. You must spend the required amount of \$25,000 to put the grand opening advertising and promotional program into effect. You will forward to us receipts and other evidence of the program that we request before opening of the Restaurant. The grand opening advertising and promotional program is in addition to all other advertising and promotion and must be approved by us in writing at least 14 days before its implementation.

### **Electronic Advertising**

Any Website used or proposed to use constitutes advertising for purposes of the Franchise Agreement, and is subject to (among other things) the provisions of Sections 10.C, 10.E and 16.B of the Franchise Agreement. In connection with any Website: (i) You will submit to us before establishing a Website, a sample of the Website format and information in the form and manner we may reasonably require; (ii) You will not establish the Website without our prior written approval; (iii) In addition to any other applicable requirements, you will comply with our standards and specifications for Websites as prescribed from time to time in the Manual or otherwise in writing. If required, you will establish your Website as part of our Website and/or establish electronic links to our Website; and (iv) If you propose any material revision to the Website or any of the information contained in the Website, you will submit each revision to us for prior written approval. A "Website" in addition to the definition in Section 1.C of the Franchise Agreement, will include networking or social media sites such as Facebook, LinkedIn, Twitter or My Space.

### **Computer/Point of Sale System**

Prior to the opening of your Restaurant, you will be required to acquire and then use an electronic point of sale cash register/computer system (the "POS System"). We will have independent, unlimited access to the sales information generated by the POS System. You will be required to use the POS System to produce sales reports and post sales, sales tax, refunds and credits, and submit that information to us each week (Franchise Agreement, Section 11 A). The POS System also has an inventory control and tracking system for cost analysis and control. We estimate that the cost of a POS System ranges between \$15,000.00 and \$30,000.00 (See also Item 7, Note 8). You will provide us with remote access 24 hours per day, every day of the year (Franchise Agreement, Section 11 A). You will be required to maintain the POS System in good working order at all times, and to upgrade

or update the POS System during the term of the Franchise Agreement as we may require from time to time. It will be your responsibility to enter into contracts for the training, maintenance, support, upgrades and updates to the POS System with approved suppliers of such products and services as identified in the Manual. You must have a functioning E-mail address so that we can send you notices and otherwise communicate with you this way.

While we do not require that you purchase a particular POS System, we do require that your POS System meet the following requirements:

Windows 10 with at least 8GB of RAM

High-Speed Internet Connection – i.e., Broadband, Satellite or Cable (minimum – 20MB download rate)

We require that you seek our approval before selecting your POS System to ensure that it is compatible with our data management system which at present is Restaurant365. You must provide access to the data management systems, the cost of which is approximately \$125 per month. The annual maintenance cost of the POS System varies based off which POS Solution is Selected. R365 currently polls the sales information from your POS System, and you must arrange to be connected to R365 or a similar data management system that is prescribed by Shakey's USA, Inc.

We reserve the right to change the POS System at any time. There are no contractual limitations on the frequency and cost of this obligation. We need not reimburse you for any of these costs.

### **Training Program**

Before the opening of your Shakey's Restaurant, you and your management team (a total of 4 people) will be required to successfully complete our Management Training Program. A management team consists of at least 3 management people plus the Operating Owner or Operating Manager, who will be in a "hands on" role on a daily basis in your Restaurant. The Training Department must be given at least 30 days prior notice of your request to participate in the training program.

Our Management Training Program is a combination of classroom style and hands-on training over a 6-week period.

The modules taught are subject to change without notice should the Training Department determine the need to update any or all materials, manuals, or processes. A summary of the Management Training Program is as follows:

### **TRAINING PROGRAM**

Shakey's training program consists of 3 styles of training:

- (1) Hands-on position training: This encompasses learning all hourly positions (FOH-BOH-supervising shifts).
- (2) In-store training: Here you will learn the administration responsibilities of running your business.
- (3) Classroom training: Here you will review basic restaurant knowledge in specific areas to help in the management of the business.

<b>SUBJECT</b>	<b>HOURS OF CLASSROOM TRAINING</b>	<b>HOURS OF ON-THE-JOB TRAINING</b>	<b>LOCATION</b>
Orientation (Safety, Security, ServSafe® for Team Members)	6	0	Alhambra, California
Dough	0	24	Alhambra, California
Dishwashing	0	4	Alhambra, California
Pizza	0	16	Alhambra, California
Fry Station	0	16	Alhambra, California
Buffet Attendant/Salad Bar	0	24	Alhambra, California
Expo	0	4	Alhambra, California
Dining Room Attendant	0	8	Alhambra, California
Games	0	4	Alhambra, California
Cashier	0	16	Alhambra, California
Food Runner	0	8	Alhambra, California
Attend Class Shift Management	2	0	Alhambra, California
Attend Class Leadership	2	0	Alhambra, California
Attend Class Coaching	2	0	Alhambra, California
Attend Class Train the Trainer	2	0	Alhambra, California
Attend Class Signature Service	2	0	Alhambra, California
Attend Class Evaluating your Restaurant	2	0	Alhambra, California
In Restaurant Guest Service	0	8	Alhambra, California
In Restaurant Cleanliness & Safety	0	4	Alhambra, California
In Restaurant Safety & Security	0	4	Alhambra, California
In Restaurant Shift Control	0	8	Alhambra, California
In Restaurant Cash Control	0	4	Alhambra, California
In Restaurant Open, Shift Change and Close	0	4	Alhambra, California
In Restaurant Product Quality	0	4	Alhambra, California
In Restaurant Basic Food Control	0	4	Alhambra, California

SUBJECT	HOURS OF CLASSROOM TRAINING	HOURS OF ON-THE-JOB TRAINING	LOCATION
In Restaurant Managing Food and Paper Costs	0	4	Alhambra, California
In Restaurant Managing Operational Expenses	0	2	Alhambra, California
In Restaurant Basic Restaurant Finances	0	2	Alhambra, California
In Restaurant Forecasting - Sales	0	2	Alhambra, California
In Restaurant Improving Restaurant Performance	0	2	Alhambra, California
In Restaurant Managing Restaurant Training	0	2	Alhambra, California
In Restaurant Managing Facilities and Equipment	0	2	Alhambra, California
In Restaurant Managing the Game Room	0	6	Alhambra, California
In Restaurant Putting it All Together	0	8	Alhambra, California
Marketing Essentials	6	0	Alhambra, California
IT Essentials	2	0	Alhambra, California
Development Essentials	2	0	Alhambra, California
Operations Essentials	2	0	Alhambra, California
Total	30	194	

Mr. Hector Rosales supervises all franchise training. His biography is set out in Item 2. The Operations Manual, Station Guide Modules and MTP Workbook will be the principal instructional materials.

The Management Training Program will be offered as needed at or near our corporate headquarters located in Alhambra, California. Hands-on training will be conducted in a certified Shakey's training location. A certification process may be made available for Developers. Certification will be at the discretion of our COO. If you are a Developer, you may request certification. If granted, you will then be allowed to conduct your own training for the Restaurants to be opened under your Area Agreement.

All training must be successfully completed to our satisfaction 4 weeks before the planned opening of your Restaurant to ensure that you and your team are given sufficient time to devote to the opening of your Restaurant.

You will be responsible for all expenses incurred by you and/or your management team. Expenses may include, but are not limited to, wages, meals, travel, and lodging.

Should any of your management team fail to satisfactorily complete the Management Training Program, you will be required to provide an appropriate replacement. We reserve the right to charge an

additional fee for any additional training costs incurred should there be a need to train more than 4 management team members, including the Operating Owner or Operating Manager, for any location.

We will provide training support for you and your management team if this is your first location, or if you are opening the first location in a new development area.

Training support for new locations for approximately 1 week before the scheduled opening and 1 week post-opening will consist of:

<b>Training Team Leader (1)</b>	<b>Team Member Trainers (3)</b>
Management Team Support	Team Member Training
Corporate Liaison	Team Member Support
Restaurant Setup	Team Member Skills Assessments

Training support for more than 2 weeks post-opening will be provided at cost, charged to you, if deemed necessary by us.

We may require you and/or your management team to attend additional training or seminars. We will provide instructors and/or materials as needed. We reserve the right to charge a reasonable fee for such additional training if necessary.

## **ITEM 12 TERRITORY**

### Franchise Agreement

Under the Franchise Agreement, the franchise is granted for a specific site. The Franchise Agreement provides for a “Protected Area,” which is typically a radius of 1 – 3 miles around your Restaurant, based on demographics and other considerations. You will not receive an exclusive territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control. You may relocate your Restaurant with our approval within your Protected Area, if you are not in default of the Franchise Agreement. You will be solely responsible for all costs and expenses in connection with a relocation of your Restaurant. As long as you comply with the Franchise Agreement and other agreements with us or our related companies, we and our related companies will not operate or authorize another to operate a Shakey’s Restaurant, which is physically located within your Protected Area.

The Franchise Agreement authorizes you, with permission from us, to provide delivery services from your Restaurant only within a specific “Delivery Area.” We and you will negotiate the size of the Delivery Area, which will vary depending on the demographics, natural boundaries, population and other factors. The Delivery Area could be smaller than the Protected Territory, but will be at least a minimum of a ½ mile radius from your Restaurant. You may not offer delivery services outside your Delivery Area. As long as you comply with the Franchise Agreement and other agreements with us or our related companies, we and our related companies will not provide, or authorize another to provide, delivery services from a Shakey’s Restaurant to customers residing within your Delivery Area. However, nothing in the Franchise Agreement requires us to take any action (such as filing a lawsuit or arbitration) against any party offering delivery services in your Delivery Area without our authorization.

We reserve the right to: (1) operate and grant to others the right to operate Shakey’s Restaurants at locations and on terms we deem appropriate outside of the Protected Area; (2) acquire and operate, or be acquired by, any company (including a company operating one or more food service businesses located or operating within the Protected Area); (3) sell any products identified by the Marks or by other trademarks, service marks, trade names or commercial symbols in any channel of distribution (other than a Shakey’s Restaurant physically located within the Protected Area), including wholesale, mail order, Internet, telephone sales, sales through non-franchised

retail outlets, or through independent distributors, whether within or outside of your Protected Area; and (4) operate and grant others the right to operate restaurants (including those offering products or services similar to those offered at a Shakey's Restaurant) identified by trademarks, service marks or trade dress other than the Marks, pursuant to terms and conditions we deem appropriate, whether within or outside of the Protected Area. In this regard, we are presently exploring the distribution of frozen pizza in non-restaurant channels of distribution.

If we elect to operate, or grant another party the right to operate, a Shakey's Restaurant at stadiums, convention centers, hospitals, recreation centers, train stations, airports, bus stations, military sites, colleges, universities and other education sites ("Non Traditional Locations"), within your Protected Area, we will notify you of the decision and advise you of the location(s), and offer you the opportunity to purchase a franchise for that location. You must notify us of your election to purchase the franchise within 30 days after your receipt of written notice from us. If you do not elect to exercise your option to purchase the location within 30 days after your receipt of written notice, we will have the right to open and operate or franchise the operation of the Non-Traditional Shakey's Restaurant at that location.

Continuation of your territorial rights is not dependent upon achievement of a certain sales volume, market penetration or other contingency. Your Protected Area may be altered only by an agreed, written modification to the Franchise Agreement executed by the parties, but we may unilaterally modify your Delivery Area based on changes in demographics and your ability to deliver products meeting our standards, perform timely and quality services and otherwise meet our delivery standards and specifications. A reduction in your Delivery Area, may affect your Gross Sales. Except as described above, you have no contractual right to acquire additional franchises within the Protected Area or options for new Protected Areas. We do not restrict you from soliciting or accepting orders from outside your Protected Area, except for your Delivery Area. We do not solicit or accept orders from within your Protected Area. However, if we did we would not pay compensation for doing so. You do not have the right to use other channels of distribution to make sales outside your Protected Area.

We or our related companies may, via acquisition or otherwise, seek business relationships with other franchised or non-franchised businesses under trademarks other than those licensed to you, which may or may not sell products or services similar to those offered for sale by your Restaurant.

### Area Agreement

If you sign the Area Agreement, you will be granted a Development Area which will be designated in the Area Agreement in which you will open and operate the Shakey's Restaurants specified in the Development Schedule (Exhibit "B" to the Area Agreement). The Development area is negotiated on a case by case basis and is based on market conditions in that geographic area. You will not receive an exclusive territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control.

During the term of the Area Agreement, as long as you comply with the Area Agreement and all Franchise Agreements, we and our affiliates will not, except as described in the next paragraph, operate or grant a franchise for operation of a Shakey's Restaurant physically located within the Development Area (other than franchises granted to you and your Authorized Entities).

We have the sole and absolute discretion to determine whether to locate a Shakey's Restaurant at Non-Traditional Locations within the Development Area. If we elect to locate a Shakey's Restaurant at a Non-Traditional Location within the Development Area, we will notify you of the decision and advise you of the location(s). If you are in compliance with the Area Agreement and all Franchise Agreements and are otherwise qualified to become a franchisee of the Non-Traditional Location, you will have 30 days from receipt of the notice to purchase the franchise. If you choose to do so, you must also assume any assets or agreements of ours relating to the proposed location at the price we paid for the assets. If you do not elect to exercise the option within 30 days, we will have the right to open and operate or franchise the operation of the Shakey's Restaurant at the Non-Traditional Location.

Your continuing rights within the Development Area are contingent on compliance with the Development Quota for each Development Period as specified in the Area Agreement. Continuation of your territorial rights is not otherwise dependent upon achievement of a certain sales volume, or other contingency, but we may terminate the Area Agreement if you fail to meet your development obligations. Except for failure to meet your Development Quota, your Development Area may be altered only by an agreed, written modification to the Area Agreement executed by the parties. Except as described above, you have no contractual right to acquire additional franchises within the Development Area or options for new Development Areas.

**ITEM 13  
TRADEMARKS**

The principal Marks which you will use to identify your Restaurant include the following registered on the Principal Register of the United States Patent and Trademark Office (“USPTO”):

MARK	REGISTRATION NUMBER	REGISTRATION DATE
SHAKEY'S PIZZA PARLOR AND YE PUBLIC HOUSE	0811107	July 12, 1966
SHAKEY'S	817896	November 1, 1966
BUNCH OF LUNCH	965257	July 31, 1973
SHAKEY'S	1008087	April 1, 1975
	1397221	June 10, 1986
	1440282	May 19, 1987
	1445725	June 30, 1987

MARK	REGISTRATION NUMBER	REGISTRATION DATE
MOJO	1771676	May 18, 1993
	1974592	May 21, 1996
<b>Shakey's</b>	1985736	July 9, 1996
THE PIZZA THAT STARTED IT ALL	1988616	July 23, 1996
WORLD'S GREATEST PIZZA	3021004	November 29, 2005
PIZZARITO	3185594	December 19, 2006
SHAKEY'S PIZZA & GRILL	3350264	December 4, 2007
	3350335	December 4, 2007
PCM	4414726	October 8, 2013
PCM	4419024	October 15, 2013
SHAKEY'S UNIVERSITY	6233497	December 29, 2020
SHAKEY'S UNIVERSITY	7530295	October 8, 2024

All required affidavits and renewal filings have been filed or made.

We do not have a federal registration for the trademarks listed below for which an application is pending. Therefore, these trademarks do not have many of the legal benefits and rights of a federally registered trademark. If our right to use these trademarks is challenged, you may have to change to an alternative trademark, which may increase your expenses. Since the applications are pending at the USPTO, no affidavits have been required to be filed.

PENDING MARK	SERIAL NUMBER	APPLICATION DATE
	98787439	October 6, 2024
	99115492	April 1, 2025

Currently, there are no effective material determinations of the USPTO, the trademark trial and appeal board, the trademark administrator of any state or any court, and no pending infringement, opposition or cancellation proceeding, or any pending material litigation, involving our principal trademarks.

There are no agreements currently in effect, which significantly limit the rights of Shakey's to use or license the use of the registered Marks. However, in connection with the settlement of certain litigation, SINC entered into a Security Agreement dated June 1, 2002, under which the plaintiffs were granted a security interest in each of the Marks and related intellectual property rights to secure them against termination of the Settlement Agreements and certain other agreements. Upon default and foreclosure on the collateral, the plaintiffs are obligated to license the collateral back to us on a perpetual, royalty-free basis. Should that occur, there would not be any negative consequences for our franchisees. We know of no superior prior rights or infringing uses that could materially affect your use of the registered Marks.

You may only use the Marks in accordance with the restrictions contained in the Franchise Agreement. You may not do or perform any act injurious or prejudicial to the Marks. You must operate the business under the name "Shakey's Pizza Parlor", "Shakey's Pizza Restaurant" or "Shakey's," and must use appropriate goods in the operation of the Restaurant, which properly display the Marks. You may not use any Mark as part of your business name. The Franchise Agreement provides that any use of the Marks not authorized by its terms will be deemed an infringement.

The Franchise Agreement requires you to notify us promptly of any attempt by another person or legal entity to use or challenge the Marks. The Franchise Agreement grants us the right to control any administrative proceedings or litigation relating to the Marks, and you must sign all documents requested by us or our counsel that are necessary to obtain protection for the Marks or to maintain their continued validity or enforceability. We have no obligation to participate in your defense or indemnify you if you are a party to an administrative or judicial proceeding involving the Marks. We are not obligated by the Franchise Agreement or otherwise to protect any

rights granted to you to use the Marks. However, if we undertake any of these actions, you must provide the assistance in the litigation that our counsel requests.

If we notify you to modify or discontinue using any Mark or item of trade dress, or use any additional or substitute trademark, service mark or item of trade dress, you must promptly comply and adopt the changes at your sole expense.

Developers have no rights in the Marks under the Area Agreement. Rights to use the Marks are derived only from the Franchise Agreement.

#### **ITEM 14 PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION**

There are no patents that are material to the franchise. We claim copyright protection in the Manual, and related materials, and advertisements and promotional materials, although these materials have not been registered with the United States Registrar of Copyrights. These materials are considered our proprietary and confidential property and may be used by you only as provided in the Franchise Agreement.

There currently are no effective determinations of the Copyright Office (Library of Congress) or any court regarding any of the copyrighted materials. There are no agreements in effect, which significantly limit our right to use or license the copyrighted materials, except to the extent they are subject to the Security Agreement described in Item 13. There are no infringing uses actually known to us, which could materially affect your use of the copyrighted materials in any state. We are not required by any agreement to protect or defend copyrights.

You must treat the Manual, any other manuals created for or approved for use in the operation of your Restaurant, and the information contained in them, as highly confidential, and must use all your reasonable efforts to maintain this information as secret and confidential. You must not copy, duplicate, record, or otherwise reproduce these materials, or otherwise make them available to any unauthorized person, without our prior written consent. The Manual will remain our sole property and you must keep it in a secure place.

We may revise the contents of the Manual, and you must comply with each new or changed standard. You must ensure that the Manual is kept current at all times. In the event of any disputes as to the contents of the Manual, the terms of the master copy maintained by us at our home office, will be controlling.

We will disclose to you certain confidential or proprietary information and trade secrets. Except as is necessary for the operation of your Restaurant and as we approve, you may not, during the term or at any time after the expiration or termination of the Franchise Agreement, regardless of the cause of termination, directly or indirectly, use for your own benefit or communicate or divulge to, or use for the benefit of any other person or entity, any trade secrets, including recipes, confidential information, knowledge or know-how concerning the services, advertising, marketing, designs, plans, or methods of operation of your Restaurant or the Shakey's System. You may disclose to your employees only that confidential, proprietary or trade secret information as is necessary to operate the Restaurant and then only while the Franchise Agreement is in effect. Any and all information, knowledge, or know-how, including, materials, equipment, marketing, and other data, which we designate as secret or confidential will be deemed secret and confidential for purposes of the Franchise Agreement.

You must require all personnel having access to any of our confidential information to sign covenants that they will maintain the confidentiality of information they receive in connection with their employment by you, by making them sign appropriate non-compete and confidentiality agreements. The covenants must be in a form satisfactory to us, including, specific identification of us as a third party beneficiary of the covenants, with the independent right to enforce them.

We also consider our trade dress (i.e., elements of the Shakey's method and style of doing business) inherently and uniquely distinctive and protectable under applicable Federal and State law.

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

Franchise Agreement

You or the Operating Manager (an approved on-site manager, if you own more than 1 Restaurant) or the Operating Owner, if applicable, must directly supervise the operation of the franchised business. The Operating Owner must: (1) have an equity ownership in a business entity franchisee; (2) have full control over day-to-day activities of the Restaurant, including control over standards of operation and financial performance; (3) have successfully completed the initial training; and (4) be approved by us. If you own more than 1 Restaurant, an Operating Manager who is approved by us and has completed the initial training to our satisfaction may satisfy this requirement. The Operating Manager is not required to have an ownership interest in the franchise or the entity that owns the franchise. You and all other owners of the franchise, may not engage in the production and/or sale of, or have any interest in or employment with, any business connected with the production and/or sale of pizza or pizza products, except under franchise agreements with us.

If you are a corporation, limited liability company or other entity, your owners will personally guaranty and be liable for the breach of all of your obligations under the Franchise Agreement and do so by signing Shakey's Continuing Personal Guaranty, which is Exhibit "C-1" to the Franchise Agreement.

You must obtain confidentiality agreements, in a form specified by us, from all managerial and other employees that we specify and from your principals and others to whom any confidential information is communicated. The confidentiality agreement states that the persons signing will not communicate such information to anyone else or allow the use of any such information by anyone else. You recognize that such data and information are our proprietary and confidential information and must be kept and maintained by you as trade secrets. The form of confidentiality agreement is Exhibit "D" to the Franchise Agreement.

If an event occurs within the system which may damage the Marks or the Shakey's system or Shakey's reputation (the "Crisis Situation"), you must immediately: (1) contact appropriate emergency care providers to assist you in curing the harm or injury; and (2) inform us by telephone of such Crisis Situation. You will not make any internal or external announcements or otherwise communicate the Crisis Situation to the public unless directed by us or public health officials to do otherwise. You and your employees will cooperate fully with us in our efforts and activities to control the handling of the Crisis Situation.

Area Agreement

You must develop your Development Area according to the Development Quota (See Item 12). Shakey's requires that you (or your managing owner) personally supervise your development of Restaurants. You also must hire sufficient personnel to manage and supervise the development of your Restaurants. The personnel need not have an equity interest in any Restaurant (or in you) and need not attend our training program. If you are a corporation, limited liability company, or other business entity, your owners must personally guaranty and be personally liable for the breach of your obligations under the Area Agreement.

Shakey's will grant franchises under the Area Agreement only to you or your Authorized Entities. "Authorized Entity" means a corporation, limited liability company, or other business entity of which you or one or more of your owners own at least 51% of the total authorized ownership interests. Franchises that we grant to your Affiliated Entities will count toward your Development Quota.

**ITEM 16**  
**RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL**

You must offer for sale and provide only those goods and services that we authorize and may not sell or offer for sale products or services which have not been authorized. We may, without limitation, change the types of authorized goods and services. These limitations include requirements that you use only menus which comply with the style, pattern and design prescribed by we and that all menu items meet we uniform standards of quality and quantity. Similarly, you are prohibited from using the Restaurant for any purpose other than the operation of the franchised business.

You may not operate the Restaurant from any location other than the site approved by us. You are prohibited from selling goods or services under the Marks from any trailer or kiosk location, school food booth, fairs or similar location, whether within or outside of the Protected Area, without our prior written approval. However, your Restaurant may offer delivery services according to our standards and specifications within the Delivery Area that we designate (See Item 12). Except for restrictions on your Delivery Area, we do not impose any restrictions or conditions that limit your access to customers.

**ITEM 17**  
**RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION**

**THE FRANCHISE RELATIONSHIP**

**This table lists important provisions of the Franchise Agreement and related documents. You should read these provisions in the Agreements attached to this Disclosure Document as Exhibit B.**

PROVISION	SECTION IN FRANCHISE AGREEMENT	SUMMARY
a. Term of the franchise	Section 2.A	10 years from the date of signing the Franchise Agreement.
b. Renewal or extension of the term	Section 15.A	On expiration, you can acquire 1 successor franchise for 10 years on then-current terms, subject to other requirements. Terms of successor franchise may be materially different.
c. Requirements for you to renew or extend	Section 15	You must (1) have substantially complied with the Franchise Agreement; (2) maintain possession of the premises; (3) enter into a current form of franchise agreement; (4) remodel and upgrade the premises; (5) pay a renewal fee of 50% of the then current initial franchise fee; (6) give at least 180 days, but not more than 270 days, written notice; (7) continue to comply with Franchise Agreement; and (8) sign a release of claims against us. If you seek to renew your franchise at the expiration of the initial term or any renewal term, you may be asked to sign a new franchise agreement that contains terms and conditions materially different from those in your previous franchise agreement, such as different fee requirements and territorial rights.
d. Termination by you	Not Applicable	You do not have this right under the Franchise Agreement.
e. Termination by Franchisor without cause	Not Applicable	We do not have this right under the Franchise Agreement.

PROVISION	SECTION IN FRANCHISE AGREEMENT	SUMMARY
f. Termination by Franchisor with cause	Section 14	We may terminate the Franchise Agreement for various listed reasons.
g. "Cause" defined – defaults which can be cured	Section 14	Failure to accurately report gross sales, submit required reports (30 days to cure); non-payment of Royalties (7 days to cure); nonpayment of suppliers (30 days to cure); noncompliance with any other Franchise Agreement provision or mandatory standard (30 days to cure); noncompliance with sanitation or food safety standards (24 hours to cure); failure to use or sell required products or services (10 days to cure); noncompliance with standards for maintenance of Restaurant (10 days to cure); unauthorized management agreement for operation of Restaurant (10 days to cure); unapproved transfer (30 days to cure); fail on 3 or more occasions within 12 months to comply with Franchise Agreement, whether or not cured; failure to maintain insurance (15 days to cure); a default in any other agreement with us.
h. "Cause" defined – defaults which cannot be cured	Sections 14.A and 14.B	Unauthorized use of Marks and Confidential Information; failure to open Restaurant and commence business; abandonment or failure to operate Restaurant; required to close as a result of any municipal, state or other agency directive; surrender or transfer Restaurant control without our prior written consent; material misrepresentation or omission related to the acquisition of the franchise; adjudged bankrupt; your property, business, accounts or assets are attached or subject to a levy; suffer cancellation or termination of lease; subject of final judgment of \$15,000 or more; conviction of a felony or other criminal misconduct; failure to transfer as required on death or disability.
i. Your obligations on termination or non-renewal	Section 16	Pay within 10 days all sums you owe us or our affiliates, including liquidated damages*; discontinue using Marks; discontinue using telephone numbers; cancel fictitious or assumed name; remove all interior and exterior signs, including pole signage, banners, table tents, etc. from the Premises which display the Marks; alter the Premises to distinguish it from a Shakey's Restaurant; cease using Confidential Information and return the Manual and all other manuals, Approved Brands List, recipes, etc.; furnish to us within 10 days, satisfactory evidence of your compliance.
j. Transfer of contract by Franchisor	Section 13.A	We may freely assign. You must agree to such modifications as required to facilitate transfer.
k. "Transfer" by you - definition	Section 13.B	Any voluntary, involuntary, direct or indirect sale, assignment, transfer, license, sublicense, sublease, collateral assignment, grant of security, collateral or conditional interest, inter-vivos transfer or testamentary or other disposition of the Franchise Agreement, any interest in or right under the agreement or any form of ownership interest in you or your assets, revenue or income of the Restaurant.
l. Franchisor approval of transfer by you	Section 13.B	Our approval is required.
m. Conditions for Franchisor approval of transfer	Section 13.C	You are in compliance with all the terms of the Franchise Agreement and other agreements with us or our affiliates; the proposed transferee is qualified to operate Restaurant; you are current with all payments due to us, our affiliates; the transferee or its Operating Owner and its manager must complete our training program to our satisfaction; the

PROVISION	SECTION IN FRANCHISE AGREEMENT	SUMMARY
		transferee must sign the then-current form of franchise agreement; payment of a transfer fee not to exceed \$5,000; you must sign a release; subordination of transferee's payment obligations to you in favor of obligations due us; you must sign a non-compete agreement and such other documents as we require; upgrade and/or remodel the Restaurant before transfer if required by us.
n. Franchisor right of first refusal to acquire your business	Section 13.E	We can match the offer within 30 days of notice or 30 days of receipt of additional information; reactivated if sale not completed in 90 days or if there is a material change in the terms of the offer.
o. Franchisor option to purchase your business	Not Applicable	We do not have this right under the Franchise Agreement.
p. Your death or disability	Section 13.D	Franchise must be assigned to an approved transferee within 9 months of death or permanent disability.
q. Non-competition covenants during the term of the franchise	Section 7.B	During the term of the franchise, you may not be involved in a competing business, regardless of its location.
r. Non-competition covenants after the franchise is terminated or expires	Section 16.C	For 3 years you will not work for, own, render services to, or give advice to a competitive business in the protected area or within 3 miles of any Shakey's Restaurant or any entity which grants franchises, licenses, or other interests to others to operate a competitive business.
s. Modification of the Franchise Agreement	Section 19.A and 19.D	Provisions deemed invalid or unenforceable shall be modified to the extent necessary to make them valid and enforceable. Otherwise, Franchise Agreement may be modified between the parties only by an agreement in writing (but we may modify its standards, specifications and operating procedures).
t. Integration/merger clauses	Section 19.E	Only the terms of the Franchise Agreement are binding (subject to state law). Any representations or promises outside of the Disclosure Document and Franchise Agreement may not be enforceable. Nothing in the Franchise Agreement is intended to disclaim anything in this Disclosure Document.
u. Dispute resolution by arbitration or mediation	Not Applicable	Not Applicable
v. Choice of forum	Section 18.G	Subject to state law, litigation in a court of competent subject matter jurisdiction in the county or district where we then maintains our principal offices. However, we may institute litigation in the county or district where the Restaurant is located or where you maintain your principal offices.
w. Choice of law	Section 18.C	California (subject to state law)

**\* Note:** If the Franchise Agreement is terminated by us due to your breach, you are liable for liquidated damages equal to the Royalty Fee for the remaining term of the Franchise Agreement, calculated as the amount equal to the average Royalty Fee for the preceding 104 weeks multiplied by the number of weeks remaining in the term, or

if the Franchise Agreement has not been in effect for 104 weeks, then the average Royalty Fee for as many weeks as the Franchise Agreement has been in effect before termination, plus all costs and expenses incurred by us in enforcing the liquidated damages provision of the Franchise Agreement.

### **THE AREA DEVELOPMENT RELATIONSHIP**

This table lists certain important provisions of the Area Agreement and related agreements. You should read these provisions in the Agreements attached to this Disclosure Document as Exhibit C.

<b>PROVISION</b>	<b>SECTION IN AREA AGREEMENT</b>	<b>SUMMARY</b>
a. Term of the franchise	Section 3.A	Expires on earlier of expiration of last Development Period or when Development Quota is met.
b. Renewal or extension of the term	Not Applicable	Not Applicable
c. Requirements for you to renew or extend	Not Applicable	Not Applicable
d. Termination by you	Not Applicable	Not Applicable
e. Termination by Franchisor without cause	Not Applicable	Not Applicable
f. Termination by Franchisor with cause	Section 10	Area Agreement can be terminated if defaults not subject to immediate termination are not cured in 30 days from notice.
g. "Cause" defined - defaults which can be cured	Section 10	Noncompliance with any other Area Agreement provision or mandatory standard (30 days to cure).
h. "Cause" defined - defaults which cannot be cured	Section 10	Area Agreement can be immediately terminated for: bankruptcy, insolvency; failure to meet development obligations; unauthorized transfer; material misrepresentations; unauthorized use of Marks or Confidential Information; multiple defaults in 12 consecutive month period; termination of any franchise agreement signed under Area Agreement.
i. Your obligations on termination or non-renewal	Section 12	Pay amounts owed to us or affiliates; cease further development or opening of Shakey's Restaurants; cease using Marks; cease using Confidential Information; comply with noncompetition covenant.
j. Transfer of contract by Franchisor	Section 11.A	Fully transferable by us.
k. "Transfer" by you - definition	Section 11.B	Any voluntary or involuntary, direct or indirect assignment, sale, gift or other transfer of: the Area Agreement; the Franchise; or ownership of Developer or any our Restaurant.
l. Franchisor approval of transfer by you	Section 11.B	You must have our prior written consent.

PROVISION	SECTION IN AREA AGREEMENT	SUMMARY
m. Conditions for Franchisor approval of transfer	Section 11.C	You are in compliance with agreement; proposed transferee meets then applicable standards for Developers; payment of all amounts due; transferee's completion of initial training; assumption of Area Agreement or execution of new Area Agreement by transferee; pay \$5,000 transfer fee; sign general release of claims against us; we approve material terms of the transfer; subordination of your claims for payment by transferee to us; Developer signs noncompetition agreement in favor of us and transferee.
n. Franchisor right of first refusal to acquire your business	Section 11.F	Shakey's can match terms of any bona fide written offer to buy ownership interest in agreement or Developer within 30 days from your written notice; reactivated if sale not completed in 120 days or if you materially change terms of sale.
o. Franchisor option to purchase your business	Not Applicable	Not Applicable
p. Your death or disability	Section 11.D	Developer's representative must complete a transfer of Developer's interest in the Area Agreement in compliance with Section 11 within 9 months from death or disability.
q. Non-competition covenants during the term of the franchise	Section 7	You may not own or be involved in any Competitive Business.
r. Non-competition covenants after the franchise is terminated or expires	Section 12.D	For 3 years after Area Agreement ends, you cannot own or be involved in Competitive Business within Development Area or 15 miles of any Shakey's Restaurant.
s. Modification of the Franchise Agreement	Sections 15.A and 15.D	Provisions deemed invalid or unenforceable shall be modified to extent necessary to make them valid, enforceable. Modification by written agreement between the parties.
t. Integration/ merger clauses	Section 15.E	Only provisions of Area Agreement are binding (subject to state law). Any representations or promises outside of the Disclosure Document and Area Agreement may not be enforceable. Nothing in the Area Agreement is intended to disclaim anything in this Disclosure Document.
u. Dispute resolution by arbitration or mediation	Not Applicable	Not Applicable
v. Choice of forum	Section 14.G	Subject to state law, litigation in a court of competent subject matter jurisdiction in the county or district where we maintain our principal offices. However, we may institute litigation in the county or district where the Developer resides or in which the Development Area is located or where the Developer maintains its principal offices.
w. Choice of law	Section 14.C	California (subject to state law)

### **Termination on Bankruptcy**

A provision in your Franchise Agreement and Area Agreement that terminates the franchise on your bankruptcy may not be enforceable under Title 11, United States Code, Section 101 *et seq.*

## **ITEM 18 PUBLIC FIGURES**

We do not use any public figure to promote our franchise.

## **ITEM 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.

### **SECTION I**

#### **ANALYSIS OF SALES AND AVERAGE COSTS AND EXPENSES FOR COMPANY-OWNED SHAKEY'S RESTAURANTS**

This analysis contains certain ranges of sales information and averages of certain types of costs and expenses incurred in the operation of 24 Company-owned Restaurants. (See Item 1.) This analysis was prepared on operating results of those 24 Company-owned Restaurants open and operating during the entire period of the 53-week fiscal year ending December 31, 2024 ("Sample Restaurants"). The Sample Restaurants were divided into 3 categories based on gross sales volume.

The arithmetic average of gross sales for each category was calculated along with the average costs and expenses for each of the 3 categories. The average costs for each category were then compared to the average sales for the category and expressed as a percentage of the sales figure. Certain fees which will be required to be paid under the Franchise Agreement and other differences between the expenses of a franchised restaurant and Company-owned restaurants are not reflected in the table.

All of the Sample Restaurants are located in Southern California, where we have a significant market presence and have been in existence for an average of 50 years. There are no Company-owned Restaurants outside of California and we cannot estimate the results of operations in other locations.

For the 53-week fiscal year 2024, there were a total of 47 Shakey's Restaurants of which 19 were franchised Shakey's Restaurants. 28 Company-owned Shakey's Restaurants. Of these 47 Shakey's Restaurants, 24 Company-owned Shakey's Restaurants were similar to the 24 Sample Restaurants in terms of age and location only. 4 Company-owned Shakey's Restaurants are not included: 2 Restaurants were acquired from a franchisee in December 2024; 1 Restaurant closed due to a fire in April 2024; and 1 Restaurant closed in January 2025. We used the financial performance information of the 24 Sample Restaurants because we believe it to be more reliable and accurate than like information from the non-Sample Restaurants because the non-Sample Restaurant information is unaudited. Information from the non-Sample Restaurants is not verified or audited by us and thus cannot be relied upon as accurate. As for the Sample Restaurants, they are under the control of our wholly owned subsidiary; the information is audited annually and certified by our Certified Public Accountants. Of the 2 Sample Restaurants, 11 or 46% of them attained or surpassed the stated results.

The Sample Restaurants averaged \$2,807,906 in gross sales per unit, with 11 units achieving beyond this level of gross sales. These restaurants offer substantially the same services that your Restaurant will offer.

The amount of gross sales realized, costs and expenses incurred will vary from unit to unit. The sales, costs, and expenses of your Restaurant will be directly affected by many factors such as the Restaurant's size, geographic location, and competition in the marketplace, the existence of other Shakey's Restaurants, the quality of management and service at the Restaurant, the contractual relationships with lessor and vendors, the extent to which you finance the construction and operation of the Restaurant, the legal, accounting, real estate and other professional fees, the federal, state and local income, the gross profits and other taxes, the discretionary expenditures, and the accounting methods used. Since certain benefits and economies are derived as a result of operating restaurants on a consolidated basis for over 42 years, you should use this analysis only as a reference to conduct your own analysis.

#### BASES AND ASSUMPTIONS

The Sample Restaurants were open and in operation for the entire year (13 periods) or 53 weeks ending December 31, 2024, and they were divided into 3 categories. The highest revenue level of any of the Sample Restaurants was \$4,342,612 and the lowest was \$1,329,579. Sample Restaurants with annual gross revenue in excess of \$3,300,000 were placed in the "High" category, Sample Restaurants with annual gross revenue ranging between \$2,500,000 and \$3,299,999 were placed in the "Medium" category, and Sample Restaurants with annual gross revenue below \$2,500,000 were placed in the "Low" category. The ranges of revenue and averages within High, Medium and Low categories are listed below:

<u>VOLUME</u>	<u>HIGH</u>	<u>MEDIUM</u>	<u>LOW</u>
<b>NUMBER OF UNITS</b>	6	10	8
<b>HIGH</b>	\$4,342,612	\$3,292,166	\$2,491,876
<b>LOW</b>	\$3,313,854	\$2,515,457	\$1,329,579
<b>AVERAGE</b>	\$3,879,488	\$2,828,375	\$1,978,634
<b>MEDIAN</b>	\$3,898,908	\$1,945,428	\$1,945,428

Of the Sample Restaurants in the "High" category, 4 exceeded average revenue; in the "Medium" category 5 exceeded average revenue and 5 had less than average revenue; and in the "Low" category, 4 exceeded average revenue and 4 had less than average revenue. The revenue figures form the basis for royalty payments to us, which are reported directly to us on a monthly basis.

Each of the Sample Restaurants used a uniform accounting system, and the data pertaining to the Sample Restaurants was prepared on a basis consistent with generally accepted accounting principles in the United States. The information in this analysis has not been audited.

The notes to the table below are an integral part of the bases and assumptions of this analysis.

**TABLE OF SALES AND AVERAGE COSTS AND EXPENSES (UNAUDITED)**

**Shakey's Average Unit Information**

**53-week Fiscal Year ending December 31, 2024 (1)**

	>\$3.3m HIGH AVERAGE		HIGH MEDIAN		>\$2.5m<\$3.3m AVERAGE MEDIUM		MEDIUM MEDIAN		<\$2.5m LOW AVERAGE		LOW MEDIAN							
Food & Beverage Sales(3)	\$	3,530,082.50	91%	\$	3,571,529.50	92%	\$	2,570,673.80	91%	\$	2,531,485.50	91%	\$	1,778,837.38	90%	\$	1,794,702.00	92%
Game Revenue(5)	\$	349,406.00	9%	\$	327,379.00	8%	\$	257,700.50	9%	\$	236,530.50	9%	\$	199,797.38	10%	\$	150,726.00	8%
<b>Total Revenue(2)</b>	\$	<b>3,879,488.50</b>	<b>100%</b>	\$	<b>3,898,908.50</b>	<b>100%</b>	\$	<b>2,828,374.30</b>	<b>100%</b>	\$	<b>2,768,016.00</b>	<b>100%</b>	\$	<b>1,978,634.75</b>	<b>100%</b>	\$	<b>1,945,428.00</b>	<b>100%</b>
Cost of Food & Beverage(4)	\$	995,447.50	26%	\$	1,019,215.50	29%	\$	744,610.00	26%	\$	759,302.50	27%	\$	527,514.63	27%	\$	548,558.50	28%
Cost of Games(6)	\$	60,511.17	2%	\$	59,383.00	18%	\$	47,303.70	2%	\$	39,328.50	1%	\$	41,875.88	2%	\$	29,631.50	2%
<b>Total COST of Revenue</b>	\$	<b>1,055,958.67</b>	<b>27%</b>	\$	<b>1,078,598.50</b>	<b>28%</b>	\$	<b>791,913.70</b>	<b>28%</b>	\$	<b>798,631.00</b>	<b>29%</b>	\$	<b>569,390.50</b>	<b>29%</b>	\$	<b>578,190.00</b>	<b>30%</b>
<b>Gross Margin</b>	\$	<b>2,823,529.83</b>	<b>73%</b>	\$	<b>2,820,310.00</b>	<b>72%</b>	\$	<b>2,036,460.60</b>	<b>72%</b>	\$	<b>1,969,385.00</b>	<b>71%</b>	\$	<b>1,409,244.25</b>	<b>71%</b>	\$	<b>1,367,238.00</b>	<b>70%</b>
<b>Total Direct Labor(7)</b>	\$	<b>868,218.50</b>	<b>22%</b>	\$	<b>875,595.00</b>	<b>22%</b>	\$	<b>710,350.30</b>	<b>25%</b>	\$	<b>694,588.00</b>	<b>25%</b>	\$	<b>584,060.75</b>	<b>30%</b>	\$	<b>600,573.50</b>	<b>31%</b>
Total Indirect Labor(8)	\$	138,400.33	4%	\$	136,758.50	4%	\$	108,457.70	4%	\$	104,489.50	4%	\$	90,911.00	5%	\$	91,324.00	5%
<b>Total Labor Costs</b>	\$	<b>1,006,618.83</b>	<b>26%</b>	\$	<b>1,012,353.50</b>	<b>26%</b>	\$	<b>818,808.00</b>	<b>29%</b>	\$	<b>799,077.50</b>	<b>29%</b>	\$	<b>674,971.75</b>	<b>34%</b>	\$	<b>691,897.50</b>	<b>36%</b>
<b>Total Operating Cost (9)</b>	\$	<b>263,055.67</b>	<b>7%</b>	\$	<b>269,242.00</b>	<b>7%</b>	\$	<b>227,162.70</b>	<b>8%</b>	\$	<b>231,080.50</b>	<b>8%</b>	\$	<b>194,217.00</b>	<b>10%</b>	\$	<b>185,944.50</b>	<b>10%</b>
<b>Controllable Profit</b>	\$	<b>1,553,855.33</b>	<b>40%</b>	\$	<b>1,538,714.50</b>	<b>39%</b>	\$	<b>990,489.90</b>	<b>35%</b>	\$	<b>939,227.00</b>	<b>34%</b>	\$	<b>540,055.50</b>	<b>27%</b>	\$	<b>489,396.00</b>	<b>25%</b>
Advertising (10)	\$	154,897.17	4%	\$	156,479.50	4%	\$	112,687.80	4%	\$	110,703.00	4%	\$	79,164.38	4%	\$	78,810.00	4%
Non-controllable cost(11)	\$	219,049.83	6%	\$	212,831.00	5%	\$	160,720.20	6%	\$	198,213.00	7%	\$	138,445.38	7%	\$	134,818.50	7%
<b>Net Operating Profit</b>	\$	<b>1,179,908.33</b>	<b>30%</b>	\$	<b>1,169,404.00</b>	<b>30%</b>	\$	<b>717,081.90</b>	<b>25%</b>	\$	<b>630,311.00</b>	<b>23%</b>	\$	<b>322,445.75</b>	<b>16%</b>	\$	<b>275,767.50</b>	<b>14%</b>

Occupancy Cost(12)	\$	295,008.50	8%	\$	304,095.50	8%	\$	257,146.00	9%	\$	221,638.00	8%	\$	211,458.88	11%	\$	180,549.50	9%
											\$	-						
											\$	-						
Other Income/Expense(13)	\$	19,667.17	1%	\$	17,461.00	0%	\$	-		\$	12,686.00	0.5%	\$	9,917.00	0.5%	\$	9,656.00	0.5%
								12428										
Cash flow from Ops	\$	904,567.00	23%	\$	882,769.50	23%	\$	472,363.90	17%	\$	421,359.00	15%	\$	120,903.88	6%	\$	104,874.00	5%
Assumed Royalty (5%) on Gross Sales	\$	193,974.43	5%	\$	194,945.43	5%	\$	141,418.72	5%	\$	138,400.80	5%	\$	98,931.74	5%	\$	97,271.40	5%
Adjusted Cash Flow from Operations	\$	710,592.58	18%	\$	687,824.08	18%	\$	330,945.19	12%	\$	282,958.20	10%	\$	21,972.14	1%	\$	7,602.60	0.4%

Notes:

- (1) Fiscal Year: – The 2024 53-week fiscal year ended December 31, 2024.
- (2) Total Revenue (Gross Sales) – Food and beverage sales and game room income- Game room income will vary on quantity and type of redemption or skilled games installed in the arcade area of your restaurant. The average number games for “Low” category are 8, for “Medium” category are 6 and for “High” category are 10. **You will pay Royalties and Advertising Fund contributions on the Gross Revenues generated by the food and beverage sales.**
- (3) Average Food and Beverage Sales – The sales figure represents all food and beverage sales (excluding all federal, state or municipal sales or service taxes collected from customers and paid to the appropriate taxing authority) for on premises and take out consumption. Beverages sold include alcoholic beverages when permissible by law. Alcoholic beverages consist of beer and wine only.
- (4) Cost of Sales – Cost of sales include beverages, food, and paper products. We negotiate contracts for quantity and price for both beverages and certain food products to take advantage of volume discount. The Sample Restaurants purchase a substantial portion of food products from Greco and Sons. Greco & Sons is an authorized supplier and is available to franchisees in its distribution area, National Supplier. Nevertheless, certain items must be purchased locally, such as fresh produce and alcoholic beverages. In addition, soft drinks will be supplied by the authorized national supplier and distributed through the local authorized bottling facility in your area. **The price of the products purchased from Greco & Sons other suppliers may vary according to the location of the Restaurant, delivery cost, the amount of mark-up imposed, and other factors, all of which may differ from historical experience.**
- (5) Game Income – Game income earned from the operation of arcade game rooms. For the “High” category, the average size of the game room is 823 square feet and has 18 games, the “Medium” category is an average of 647 square feet and 15 games, and the “Low” category is an average of 608 square feet and 13 games. Income earned from the operation of arcade game rooms, which consist of video, redemption and other similar amusement games means income earned from operation of game rooms less associated operating costs (merchandise, tickets, tokens) The Sample Restaurants own all of their games and the net amount includes deductions for the cost to repair the equipment, cost of redemption merchandise and the cost of supplies for the equipment. **You will pay Royalties and Advertising Fund contributions on the gross revenues generated by the arcade games. You may lease your games.**
- (6) Game Expense – Game expense consists of game repair, game merchandise, game products, and game sales tax.
- (7) Payroll Management – Management includes payroll expense for 2 or 3 restaurant managers. The number of managers will vary based on sales volume and your requirements may differ from those of the Sample Restaurants. We typically require a franchisee (or its Operating Owner) with a single franchised Restaurant to initially operate the Restaurant as a General Manager with 2 Assistant Managers. The average annual salary of a General Manager at the Sample Restaurants was \$73,361 and the average hourly rate for assistant managers was \$16.94. Many of our General Managers are tenured and we operate in the State of California where the minimum salaried wages for exempt employees is \$68,640.00. Payroll – Hourly – Hourly wages, including vacation for food preparation and service employees. The amount of hourly labor necessary to operate a Shakey’s Restaurant will vary from unit to unit and should be consistent with sales volume. Hourly wages vary significantly by geographic location, the supply and demand of the local labor pool, and state and federal mandated minimum wage laws. All of the Sample Restaurants are located in California, which has a high minimum wage standard - \$15.500 per hour. In addition, many employees have been with the Sample Restaurants for many years and may earn higher than average wages for hourly employees. The average hourly wage at the Sample Restaurants was \$16.94.

- (8) Unemployment taxes, FICA, employee benefits for exempt managers and workers compensation insurance, are included in this category.
- (9) Operating Expenses – Cost of utilities, repair, maintenance, small wares including dishware, utensils, pans and glasses, laundry, cleaning/janitorial services, dishwasher supplies, protective services, music rights, cash over/short, trash service, cable service, carpet cleaning, grease removal, POS supplies, and technology costs (including . Utilities include electricity, gas, water, telephone, DSL and Internet. These costs are subject to local market conditions and may vary depending on the geographic location of the Restaurant. All of the sample restaurants are located in California.
- (10) Advertising Expenses – The advertising spending level of the Sample Restaurants has been averaged at 4.6% of food and beverage sales only. This amount includes the 3.8% contribution to the local cooperative. In addition, the Sample Restaurants participate in local promotions, such as fundraisers, student awards, and other community involvement. These figures include Advertising Fund contributions.
- (11) Non-Controllable Costs – Protective Services, Armored Services, Pest Control, Extraordinary Repairs, Gardening, General Insurance, personal Property, Vacation, Sick, Bonus, LSM, Bank Fees, CC Fees, Licenses, Permits and Music Rights are listed in Non-Controllable cost.
- (12) Occupancy – Rent and lease costs, common area maintenance expense, tax and insurance due the landlord, property and casualty insurance and property taxes. Rent and lease costs include base rent and percentage rent. Common area maintenance costs typically include pro rata charges for parking lot maintenance, lighting, real estate taxes associated with the common area of property. Rental costs will vary as a result of space requirements and local market conditions. Other occupancy costs include personal property taxes, and operating licenses required by state and local agencies. **All Sample restaurants are located in Southern California and may experience a higher rent cost than many other geographical areas of the Country.**
- (13) Other Income – Marketing rebate based on Pepsi volume usage. The national authorized beverage suppliers’ contract is inclusive of a volume usage rebate for all restaurants.

Note: You may incur costs and expenses not identified and the costs and expenses of the Sample Restaurants may differ from the actual costs and expenses of your Restaurant.

\* The California minimum wage is \$15.50 per hour, many local jurisdictions average higher minimum wages for instance 6 of our sampled locations operate in LA City where minimum wage is \$16.90 per hour

You need to consider the additional expenses you will incur as a franchisee. The Cost of Food and Beverages may vary according to the location of your Restaurant, delivery cost, the mark-up, and other factors, all of which may differ from the historical experience of the Sample Restaurants.

Written substantiation for the financial performance representations in this Section II is available to you upon reasonable request.

Some Shakey’s Restaurants have sold these amounts. Your individual results may differ. There is no assurance that you will sell as much. There may be other costs and expenses not identified.

## SECTION II

### **ANALYSIS OF GROSS FOOD & BEVERAGE REVENUE FOR FRANCHISED SHAKEY’S RESTAURANTS**

As of December 31, 2024, there were 19 franchised Shakey’s Restaurants.

The analysis in this section contains certain ranges of gross Food and Beverage revenue information in the operation of the 19 Franchised Restaurants that are located in the United States. This analysis was prepared based on the operating results of those Restaurants open and operating during the entire period of the year ending December 31, 2024. These Restaurants were divided into 3 categories based on gross Food and Beverage revenue volume. The financial performance representation does not reflect the costs of sales, operating expenses, or other costs or expenses that must be deducted from the Food and Beverage revenue figures to obtain your net income or profit. You should conduct an independent investigation of the costs and expenses you will incur in operating your Shakey's Restaurant. Franchisees or former franchisees, listed in the Disclosure Document may be one source of information.

16 Franchised Restaurants are located in Southern California and 3 are located in Northern California and other States or outside the United States. These Restaurants averaged \$1,887,537 in gross Food and Beverage revenue per unit, with 8 units achieving beyond this level of gross Food and Beverage revenue. These Restaurants offer substantially the same services that your Restaurant will offer.

The amount of gross Food and Beverage revenue realized will vary from unit to unit. The revenue, costs, and expenses of your Restaurant will be directly affected by many factors such as the Restaurant's size, geographic location, and competition in the marketplace, the existence of other Shakey's Restaurants, the quality of management and service at the Restaurant, the contractual relationships with lessors and vendors, the extent to which you finance the construction and operation of the Restaurant, the legal, accounting, real estate and other professional fees, the federal, state and local income, the gross profits and other taxes, the discretionary expenditures, and the accounting methods used. Since certain benefits and economies are derived as a result of operating restaurants on a consolidated basis for years, you should use this analysis only as a reference to conduct your own analysis.

#### BASES AND ASSUMPTIONS

The 19 Franchised Restaurants were open and in operation for the entire year ending December 31, 2024, and they were divided into 3 categories. The highest gross Food and Beverage revenue level of any of the Franchised Restaurants was \$3,281,774, and the lowest was \$315,686 (closed in February 2025). Franchised Restaurants with annual gross Food & Beverage revenue in excess of \$2,600,000 were placed in the "High" category, Franchised Restaurants with annual gross Food & Beverage revenue ranging between \$1,500,000 to \$2,500,000 were placed in the "Medium" category, and Franchised Restaurants with annual gross Food & Beverage revenue below \$1,400,000 were placed in the "Low" category. The ranges of revenue and averages within High, Medium and Low categories are listed below:

**ALL FRANCHISED RESTAURANTS\*\***

<u>VOLUME</u>	<u>HIGH</u>	<u>MEDIUM</u>	<u>LOW</u>
NUMBER OF UNITS	5	7	7
HIGH	\$3,281,774	\$2,558,827	\$1,480,199
LOW	\$2,661,404	\$1,513,303	\$315,686
AVERAGE	\$3,053,255	\$1,924,769	\$1,017,650
MEDIAN	\$3,233,964	\$1,758,126	\$1,128,871

\*\* Annual Gross Revenue figures are reported by franchisees and not audited or otherwise verified by Shakey's.

Of the Franchise Restaurants in the "High" category, 3 exceeded average revenue and 2 had less than average revenue; in the "Medium" category, 3 exceeded average revenue and 4 had less than average revenue; and in the "Low" category, 4 exceeded average revenue and 3 had less than average revenue. The revenue figures form the basis for royalty payments to us, which are reported directly to us on a monthly basis.

Written substantiation for the financial performance representations in this Section II is available to you upon reasonable request.

**Some Shakey's Restaurants have sold these amounts. Your individual results may differ.**

**There is no assurance that you'll sell as much. There may be other costs and expenses not identified.**

Other than the preceding financial performance representations, we do not make any representations about a franchisee's future financial performance or the past financial performance of company-owned 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 Sonia Barajas-Najera at 2200 West Valley Boulevard, Alhambra, California 91803 (626) 576-0616, the Federal Trade Commission, and the appropriate state regulatory agencies.

**ITEM 20  
OUTLETS AND FRANCHISEE INFORMATION**

**Table No. 1  
Systemwide Outlet Summary  
For years 2022 to 2024**

Outlet Type	Year	Outlets at the Start of the Year	Outlets at the End of the Year	Net Change
Franchised	2022	25	24	-1
	2023	24	22	-2
	2024	22	19	-3
Company-Owned (1)	2022	24	24	0
	2023	24	26	+2
	2024	26	28	+2
Total Outlets	2022	49	48	-1
	2023	48	48	0
	2024	48	47	-1

(1) The Company-owned Shakey's Restaurants are owned and operated by our subsidiaries, SCO, LLC. See Item 1.

**Table No. 2  
Transfers of Outlets from Franchisees to New Owners (other than the Franchisor)  
For years 2022 to 2024**

State	Year	Number of Transfers
California	2022	1
	2023	3
	2024	1
Total	2022	1
	2023	3
	2024	1

**Table No. 3  
Status of Franchised Outlets  
For years 2022 to 2024**

State	Year	Outlets at the Start of Year	Outlets Opened	Termination	Non-Renewals	Reacquired by Franchisor	Ceased Operations – Other Reasons	Outlets at End of the Year
California	2022	23	0	1	0	0	0	22
	2023	22	0	0	0	2	0	20
	2024	20	0	0	0	2	1	17
Washington	2022	2	0	0	0	0	0	2
	2023	2	0	0	0	0	0	2
	2024	2	0	0	0	0	0	2

State	Year	Outlets at the Start of Year	Outlets Opened	Termination	Non-Renewals	Reacquired by Franchisor	Ceased Operations – Other Reasons	Outlets at End of the Year
Totals	2022	25	0	1	0	0	0	24
	2023	24	0	0	0	2	0	22
	2024	22	0	0	0	2	1	19

**Table No. 4**  
**Status of Company-Owned Outlets**  
**For years 2022 to 2024**

State	Year	Outlets at the Start of Year	Outlets Opened	Outlets Reacquired From Franchisee	Closed Outlets	Outlets Sold to Franchisee	Outlets at End of the Year
California	2022	24	0	0	0	0	24
	2023	24	0	2	0	0	26
	2024	26	0	2	0	0	28
Totals	2022	24	0	0	0	0	24
	2023	24	0	2	0	0	26
	2024	26	0	2	0	0	28

**Table No. 5**  
**Projected Openings as of January 1, 2025**

State	Franchise Agreements Signed But Outlets Not Opened	Projected New Franchised Outlets in the Next Fiscal Year	Projected New Company-Owned Outlets in the Next Fiscal Year
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>

Exhibit “F” lists the names of all of our operating franchisees and the addresses and telephone numbers of their Restaurants as of January 1, 2025. Exhibit “F-1” lists the franchisees who have signed Franchise Agreements for Shakey’s Restaurants which were not yet operational as of January 1, 2025. Exhibit “F-2” lists the name, city and state, and business telephone number (or, if unknown, the last known home telephone number) of every franchisee who had an outlet terminated, cancelled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under a Franchise Agreement during the most recently completed fiscal year, or who have not communicated with us within 10 weeks of the issuance date of this Disclosure Document. If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

During the last 3 fiscal years, we have not signed any confidentiality clauses with current or former franchisees which would restrict them from speaking openly with you about their experience with us.

SINC (See Item 1) endorsed the Shakey’s Franchised Dealers Association, Inc. (“SFDA”). Shakey’s has no address, telephone number, E-mail or Web address for the SFDA. Other than the SFDA, there are no other trademark specific organizations formed by our franchisees that are associated with the Shakey’s System.

**ITEM 21  
FINANCIAL STATEMENTS**

Attached to this Disclosure Document as Exhibit G are our audited financial statements as of December 31, 2024, December 31, 2023, and December 31, 2022. Also attached as Exhibit G are unaudited financial statements (balance sheet and statement of income) dated as of June 17, 2025.

**ITEM 22  
CONTRACTS**

Attached to this Disclosure Document are the following franchise-related documents:

EXHIBIT B	Franchise Agreement
EXHIBIT C	Area Development Agreement
EXHIBIT H	Release

**ITEM 23  
RECEIPTS**

Exhibit "I" contains detachable receipts for this Disclosure Document. You are to keep one copy and return the other to us.

**Exhibit "A"**

**State Agencies and Administrators and Agents for Service of Process**

## STATE AGENCIES AND ADMINISTRATORS AND AGENTS FOR SERVICE OF PROCESS

<u>State Administrators</u>	
<p><b>CALIFORNIA</b>                      Commissioner of Department of Financial Protection and Innovation                      320 West 4<sup>th</sup> Street, Suite 750                      Los Angeles, California 90013-2344                      (213) 576-7500                      1-866-275-2677 (toll free)                      Ask.DFPI@dfpi.ca.gov</p>	<p><b>NORTH DAKOTA</b>                      North Dakota Securities Department                      600 East Boulevard Avenue                      State Capital, Fifth Floor, Dept. 414                      Bismarck, North Dakota 58505-0510                      Phone 701-328-2929</p>
<p><b>HAWAII</b>                      Department of Commerce &amp; Consumer Affairs                      335 Merchant Street, Room 205                      Honolulu, Hawaii 96813                      (808) 586-2744</p>	<p><b>OREGON</b>                      Department of Consumer and Business Services                      Division of Finance and Corporate Securities                      Labor and Industries Building                      Salem, Oregon 97310</p>
<p><b>ILLINOIS</b>                      Chief Franchise Bureau                      Office of Attorney General                      500 South Second Street                      Springfield, Illinois 62701                      (217) 782-1090</p>	<p><b>RHODE ISLAND</b>                      Director of the Rhode Island Department of Business Regulation                      1511 Pontiac Avenue                      Cranston, Rhode Island 02920</p>
<p><b>INDIANA</b>                      Indiana Securities Division                      302 W. Washington Street, Room E-111                      Indianapolis, Indiana 46204</p>	<p><b>SOUTH DAKOTA</b>                      Department of Labor &amp; Regulation, Division of Insurance, Securities Regulation                      124 S. Euclid Second Floor                      Pierre South Dakota 57501                      (605) 773-5963</p>
<p><b>MARYLAND</b>                      Office of the Attorney General,                      Securities Division                      200 St. Paul Place                      Baltimore, Maryland 21202-2020</p>	<p><b>VIRGINIA</b>                      Division of Securities and Retail Franchising                      State Corporation Commission                      1300 East Main Street, Ninth Floor                      Richmond, Virginia 23219</p>
<p><b>MICHIGAN</b>                      Franchise Administrator, Consumer Protection Division,                      Franchise Unit - Michigan Department of Attorney General                      525 W. Ottawa Street, 7<sup>th</sup> Floor                      Lansing, Michigan 48913                      (517) 373-7117</p>	<p><b>WASHINGTON</b>                      Department of Financial Institutions Securities Division                      150 Israel Road SW                      Tumwater, Washington 98501                      (Agent for Service of Process)</p>
<p><b>MINNESOTA</b>                      Commissioner of Commerce                      Minnesota Department of Commerce                      85 7<sup>th</sup> Place East, Suite 280                      St. Paul, Minnesota 55101                      Phone: 651-539-1600</p>	<p><b>WISCONSIN</b>                      Franchise Administrator                      Securities and Franchise Registration                      Wisconsin Securities Commission                      4822 Madison Yards Way, North Tower                      Madison, Wisconsin 53705                      (608) 261-9555</p>
<p><b>NEW YORK</b>                      NYS Department of Law                      Investor Protection Bureau                      28 Liberty Street, 21st Floor                      New York, New York 10005                      (212) 416-8285</p>	
<u>Agents for Service of Process</u>	
<p><b>CALIFORNIA</b>                      Commissioner of the Department of Financial Protection and Innovation                      1515 K Street, Suite 200                      Sacramento, California 95814</p>	<p><b>NORTH DAKOTA</b>                      North Dakota Securities Department                      600 East Boulevard Avenue                      State Capitol, 5th Floor, Dept. 414                      Bismarck, North Dakota 58505-0510</p>
<p><b>HAWAII</b>                      Hawaii Commissioner of Securities Business Registration                      Division                      335 Merchant Street, Room 205                      Honolulu, Hawaii 96813</p>	<p><b>RHODE ISLAND</b>                      Director of Business Regulation                      1511 Pontiac Avenue                      Cranston, Rhode Island 02920</p>

<p><b>ILLINOIS</b>  Illinois Attorney General Office  500 South Second Street  Springfield, Illinois 62701</p>	<p><b>SOUTH DAKOTA</b>  Director of the Division of Insurance  Securities Regulation  Department of Labor and Regulation  124 South Euclid Avenue, 2nd Floor  Pierre, South Dakota 57501</p>
<p><b>INDIANA</b>  Indiana Securities Division  302 West Washington Street  Room E-111  Indianapolis, Indiana 46204</p>	<p><b>VIRGINIA</b>  Clerk, State Corporation Commission  1300 East Main Street, First Floor  Richmond, Virginia 23219</p>
<p><b>MARYLAND</b>  Maryland Securities Commissioner  200 Saint Paul Place  Baltimore, Maryland 21202</p>	<p><b>WASHINGTON</b>  Administrator of Securities  Department of Financial Institutions  150 Israel Rd. SW,  Tumwater, WA 98501-</p>
<p><b>MINNESOTA</b>  Commissioner of Commerce  State of Minnesota Department of Commerce  Registration division  85 7th Place East Suite 280  Saint Paul, Minnesota 55101</p>	<p><b>WISCONSIN</b>  Commissioner of Securities  Office of the Commissioner of Securities  4822 Madison Yards Way, North Tower  Madison, Wisconsin 53705  (608) 261-9555</p>
<p><b>NEW YORK</b>  New York Secretary of State  New York Department of State  One Commerce Plaza  99 Washington Avenue 6th Floor  Albany, New York 12231-0001</p>	<p><b>IN ALL OTHER STATES:</b>  Sonia Barajas-Najera  2200 West Valley Boulevard,  Alhambra, California 91803  (626) 576-0616</p>

**Exhibit "B"**

**Franchise Agreement**

**SHAKEY'S USA, INC.**

**FRANCHISE AGREEMENT**

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**EXHIBITS**

- Exhibit A – Premises, Protected Area and Delivery Area
- Exhibit B – Operating Owner/Form of Entity of Franchisee
- Exhibit C-1 – Continuing Personal Guarantee
- Exhibit C-2 – Confidentiality Agreement and Covenants Not to Compete
- Exhibit D – Confidentiality Agreement
- Exhibit E – Electronic Funds Transfer Authorization
- Exhibit F – Security Agreement
- Exhibit F-1 – UCC-1 Financing Statement

**SHAKEY'S USA, INC.**  
**FRANCHISE AGREEMENT**

THIS FRANCHISE AGREEMENT (the "Agreement") is entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, between SHAKEY'S USA, INC., a Delaware corporation, with its principal office at 2200 West Valley Boulevard, Alhambra California 91803, and \_\_\_\_\_, a(n) \_\_\_\_\_, whose principal address is \_\_\_\_\_.

**1. PREAMBLES AND ACKNOWLEDGMENTS.**

**A. PREAMBLES.**

This Agreement has been written in an informal style in order to make it more easily readable and to help you become thoroughly familiar with all of the important obligations this Agreement covers before you sign it. Once signed, this is a binding legal document, which imposes obligations on you. In this Agreement, Shakey's USA, Inc., is referred to as "Shakey's." Shakey's refers to you as "you" or in some cases "Franchisee."

Shakey's franchises restaurants under the name "Shakey's." These restaurants, called "Shakey's Restaurants" in this Agreement, offer a family dining experience featuring pizza, chicken, salads, potatoes, pastas, and beverages, including beer and wine, where available, and operate under the System (defined below). The Shakey's Restaurants located in Southern California may offer buffet meals for lunch. The Shakey's Restaurants located outside of Southern California may offer buffet meals throughout the day. Most Shakey's Restaurants also feature arcade game rooms. Shakey's uses/owns and licenses certain trademarks, service marks and trade dress, including the mark "SHAKEY'S®," and such other marks, logos and commercial symbols as Shakey's may adopt from time to time (the "Marks"). Shakey's owns a comprehensive system for developing, marketing and operating Shakey's Restaurants (the "System"). The System includes the Marks, building design and layouts, equipment, ingredients, recipes, methods of preparation and specifications for authorized food products and beverages, methods of inventory and operations control, and particular business practices and policies; all of which Shakey's may modify from time to time.

**B. FACTS YOU ACKNOWLEDGE.**

You have read this Agreement and Shakey's Franchise Disclosure Document. You understand the terms of this Agreement and accept them as reasonable and necessary to maintain Shakey's uniformly high quality standards at all Shakey's Restaurants in order to protect and preserve the goodwill of the Marks and the integrity of the System. You recognize that the restaurant industry is highly competitive, with constantly changing market conditions. You have conducted an independent investigation of the business contemplated by this Agreement and recognize that the nature of Shakey's Restaurants may change over time, that an investment in a Shakey's Restaurant involves business risks, and that the success of the venture largely depends on your own business abilities, efforts and financial resources.

You have not received or relied on any express or implied guaranty or assurance as to the revenues, profits or success of the business venture contemplated by this Agreement. Shakey's

managers, officers, employees and agents act, and have acted, only in a representative capacity in their dealings with you. You and your Owners (defined below), if applicable, represent and warrant to Shakey's, as an inducement to entering into this Agreement, that neither you nor any of your Owners has made any untrue statement of any material fact or has omitted to state any material fact in obtaining the rights granted under this Agreement. You have applied for a franchise to own and operate a Shakey's Restaurant, and Shakey's has approved your application in reliance on all of your statements made in connection with your application.

### C. CERTAIN DEFINITIONS.

The terms below have the meanings which follow and include the plural as well as the singular. Other terms are defined elsewhere in this Agreement in the context in which they arise.

"Advertising Fund" - The advertising fund (which may be a separate entity) to which franchisees will contribute in order to fund advertising and related programs and materials.

"Affiliate" - Any person, entity or company directly or indirectly owning or controlling the referenced party, or directly or indirectly owned or controlled by the referenced party, or under common control with the referenced party. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of management and policies, whether through ownership of voting securities, by contract, or otherwise.

"Competitive Business" - Any restaurant or other business which features game rooms and the sale of pizza, or any other business featuring a concept similar to the Shakey's Restaurant concept, as Shakey's evolves or changes over time.

"Confidential Information" - Shakey's proprietary and confidential information relating to the development, marketing and operation of Shakey's Restaurants, including without limitation: (i) ingredients, recipes, and methods of food preparation and presentation; (ii) site selection criteria for Shakey's Restaurants and plans and specifications for developing Shakey's Restaurants; (iii) sales, marketing and advertising programs and techniques for Shakey's Restaurants; (iv) knowledge of specifications for, and suppliers of, certain food products, materials, supplies and equipment; (v) knowledge of operating results and financial performance of Shakey's Restaurants, other than the Restaurant (defined below); and (vi) methods of inventory control, storage, product handling, and management of Shakey's Restaurants.

"Delivery Area" - The geographic area identified in Exhibit A as the area in which you shall be permitted to offer Delivery Services. The Delivery Area may be modified from time to time by Shakey's pursuant to the terms of Section 2.C hereof.

"Delivery Services" - Delivery to customer locations of products prepared and cooked at a Shakey's Restaurant premises pursuant to individual orders placed by those customers and Shakey's standards, specifications, operating procedures and rules.

"Franchisee Association" - Any organization which can prove to Shakey's reasonable satisfaction that it represents the interests of a majority of franchised Shakey's Restaurants.

“Gross Sales” - The entire amount of all sales of food, beverages (including alcoholic and non-alcoholic products) and other products sold and services rendered (including revenues derived from vending machines, games, juke boxes and other entertainment devices) from, at or of the Restaurant, howsoever derived, of every type, kind or nature arising out of the operation of the Restaurant, whether performed or sold on or off the Restaurant premises, whether for cash, credit, exchange or otherwise and whether performed by you, your employees, independent contractors or others, as the same are booked on a cash basis in accordance with generally accepted accounting principles, but excluding all federal, state or municipal sales or service taxes collected from customers and paid to the appropriate taxing authority.

“Immediate Family” - Parents, spouses, offspring, whether related biologically or through adoption, and siblings and their spouses and the parents and siblings of spouses.

“Marks” - Trademarks, service marks, trade names, commercial symbols, logos and trade dress used to identify Shakey’s services and/or products.

“Manual” - Shakey’s confidential manual, which is one or more manuals containing mandatory and suggested standards, specifications and operating procedures relating to the development and operation of Shakey’s Restaurants, as well as other information relating to your obligations under this Agreement. The term “Manual” also includes other tangible and electronic means of communicating such information to you, including bulletins, videotapes, audio tapes, compact discs, e-mail, computer diskettes, and materials and information distributed during seminars, training and meetings, changes to the Manual, fixtures, furnishings and equipment package specifications, specifications for marketing, training, operations, accounting and record keeping, purchasing and development.

“Operating Manager” - An individual who, if approved by Shakey’s, shall be responsible for on-site management of the Restaurant if you already own another Shakey’s restaurant.

“Operating Owner” - If you are a partnership, corporation, limited liability company or other business entity, the individual you designate in Exhibit B, and approved by Shakey’s, who will be responsible for management of the Restaurant. The Operating Owner shall at all times: (i) be an Owner; (ii) have full control over the day-to-day activities of the Restaurant(s), including control over standards of operation and financial performance; (iii) have successfully completed Shakey’s training program and any additional training required by Shakey’s; and (iv) have been approved by Shakey’s. If the Operating Owner no longer qualifies, you shall designate another person whom Shakey’s approves to act as Operating Owner within sixty (60) days and such new designee shall sign a personal guarantee, in the form of Exhibit C-1.

“Owner” - If you are a partnership, corporation, limited liability company or other business entity, each person or entity who has a direct or indirect legal or beneficial ownership interest in you. Your current Owners are identified in Exhibit B. Each Owner shall sign a personal guarantee in the form of Exhibit C-1.

“Parties” - The parties to this Agreement: Shakey’s USA, Inc. and you.

“Premises” - The location identified in Exhibit A as the physical site for your Restaurant.

“Protected Area” - The territory surrounding your Restaurant, as identified in Exhibit A.

“Restaurant” - The franchised Shakey’s Restaurant you operate at the Premises pursuant to this Agreement.

“System” - Shakey’s business methods, designs and arrangements for developing, marketing and operating Shakey’s Restaurants which include, without limitation, the Marks, building design and layouts, game rooms, equipment, ingredients, recipes, methods of preparation and specifications for authorized food products and beverages, methods of inventory and operations control and certain business practices and policies, all of which Shakey’s may improve, further develop or otherwise modify from time to time.

“Website” - An interactive electronic document contained in a network of computers linked by communications software, that you operate or authorize others to operate and that refers to the franchised business, the Marks, Shakey’s and/or the System. The term Website includes, but is not limited to, Internet and World Wide Web home pages.

## **2. GRANT AND RESTRICTIONS ON RIGHTS.**

### **A. GRANT OF FRANCHISE.**

Subject to the terms of this Agreement, Shakey’s grants to you the right, and you assume the obligation, to operate a Shakey’s Restaurant at the Premises, and to use the System in connection with the Restaurant, for a term of ten (10) years (the “Term”), starting on the date of this Agreement (the “Franchise”). You may not conduct the business of the Restaurant or make any sales (except as otherwise set forth in Section 2.C below) at or from any site other than the Premises, or relocate the Restaurant, without Shakey’s prior written consent. You are prohibited from making any sales under the Marks from any trailer or kiosk locations, school food booth, fairs or similar locations, whether within or outside of the Protected Area, without Shakey’s prior written approval.

### **B. FRANCHISEE’S PROTECTED AREA.**

Provided you and your Affiliates are in compliance with this Agreement and all other agreements with Shakey’s or any of its Affiliates, then during the Term, Shakey’s will not operate (directly or through an Affiliate), nor grant the right to any person, firm or entity to operate any Shakey’s Restaurant, physically located within the Protected Area as described in Exhibit A. Notwithstanding the foregoing, business entities related to Shakey’s that operate food service establishments featuring similar menu items under different trademarks, service marks, trade names and/or logos, may do so in the Protected Area.

### **C. FRANCHISEE’S DELIVERY AREA.**

Shakey’s hereby authorizes you to provide Delivery Services from the Restaurant solely to customers whose addresses are within the Delivery Area. From time to time during the Term, Shakey’s may, in its discretion, modify the Delivery Area based on changes in demographics and similar factors which, in Shakey’s judgment, are likely to impact your ability to deliver hot, fresh

products, perform timely and quality services, or otherwise comply with Shakey's standards, specifications, operating procedures and rules relating to Delivery Services.

Provided you and your Affiliates are in compliance with this Agreement and all other agreements with Shakey's or any of its Affiliates, then during the Term, neither Shakey's nor any of its Affiliates will provide, nor expressly grant the right to any person, firm or entity to provide, Delivery Services to any customer whose address is in the Delivery Area. However, notwithstanding your rights and Shakey's obligations described above, nothing in this Agreement shall be interpreted to require Shakey's to take any action (including, but not limited to, defaulting or terminating a franchise or other agreement and filing an arbitration demand) if any other party offers Delivery Services to customers whose address is in the Delivery Area without Shakey's having expressly granted such party the right to do so. You may experience competition from business entities related to Shakey's in your Delivery Area, offering similar menu items under different trademarks, service marks, tradenames or logos. Shakey's has no obligation to you if this should occur.

#### **D. RESERVATION OF RIGHTS.**

Except as otherwise specifically set forth above, Shakey's and its Affiliates retain all rights to the Marks, the System and Shakey's Restaurants, including the right to: (i) operate and grant to others the right to operate Shakey's Restaurants at locations and on terms Shakey's deems appropriate anywhere outside of the Protected Area, including on the border of the Protected Area; (ii) acquire and operate, or be acquired by, any company (including, without limitation, a company operating one or more food service businesses located or operating within the Protected Area); (iii) sell any products identified by the Marks or by other trademarks, service marks, trade names or commercial symbols in any channel of distribution (other than a Shakey's Restaurant physically located within the Protected Area), including, without limitation, wholesale, mail order, telephone sales, Internet sales, sales through franchised or non-franchised retail outlets, or through independent distributors, whether within or outside of your Protected Area or Delivery Area (subject to Section 2.C above); and (iv) operate and grant others the right to operate restaurants (including, without limitation, restaurants offering products and services similar to those offered by Shakey's Restaurants) identified by trademarks, service marks or trade dress, other than the Marks, pursuant to terms and conditions Shakey's deems appropriate, whether within or outside of the Protected Area or Delivery Area.

#### **E. NON-TRADITIONAL LOCATIONS.**

Shakey's also reserves the right to sell from a franchised Shakey's Restaurant or otherwise, any products or services under the Marks at certain locations, including, without limitation, stadiums, convention centers, hospitals, recreation centers, train stations, airports, bus stations, military sites, colleges, universities and other educational sites, whether these locations are within or outside the Protected Area ("Non-Traditional Locations"), provided that Shakey's shall first offer such right to you in writing, identifying the location and terms and conditions of conducting business at any such Non-Traditional Location, if you are in compliance with all agreements between you and Shakey's and its Affiliates (including this Agreement) and Shakey's determines that you are otherwise qualified to own and/or operate the business to be conducted at the Non-Traditional Location. You shall have thirty (30) days from the date of Shakey's offer to accept or

reject such offer, provided that your acceptance must include an agreement to purchase or assume any assets or agreements related to the proposed Non-Traditional Location at the price paid by Shakey's or its Affiliates for the same, as well as your agreement to sign such instruments and documents (including, at Shakey's discretion, a franchise agreement) as Shakey's reasonably requires for such Non-Traditional Location. In the event that you fail to accept Shakey's offer of any Non-Traditional Location within thirty (30) days of the receipt of Shakey's offer, Shakey's may, at its option, implement or authorize another entity or individual to open and operate or franchise the operation of such Non-Traditional Location and retain all revenues generated, without any obligation to you.

### **3. DEVELOPMENT OF THE RESTAURANT.**

#### **A. PURCHASE OR LEASE OF PREMISES.**

Your site and lease for the Premises must be approved by Shakey's. Within forty-five (45) days from signing this Agreement, you shall submit to Shakey's complete site reports in the form supplied and approved by Shakey's (containing such demographic, commercial and other information and photographs as Shakey's may reasonably require) for the site at which you propose to establish and operate a Restaurant and which you reasonably believe conforms to the site selection criteria established by Shakey's from time to time. In reviewing any proposed site, Shakey's will consider such matters as it deems material, including, without limitation, demographic characteristics of the proposed site, traffic patterns, difficulty of ingress and egress, parking, the proximity to other businesses (including other restaurants and food service businesses), the nature of other businesses in proximity to the site, other commercial characteristics (including the purchase price or rental obligations and other lease terms for the proposed site) and the size, appearance and other physical characteristics of the Premises. In the event the proposed site is located within a mall or shopping center, the proposed site must meet Shakey's standards with respect to the overall characteristics of the mall or shopping center, the location of the site within the mall or shopping center, quality, quantity and type of tenants in the mall or shopping center and demographic characteristics of the mall or shopping center traffic.

Shakey's will have forty-five (45) days after you submit your complete request in which to approve or disapprove the site. You must obtain lawful possession of the Premises through a lease or purchase within ninety (90) days after approval of the site by Shakey's. Any lease for the Premises shall, in form, be satisfactory to Shakey's and shall: (i) provide for notice to Shakey's of, and Shakey's right to cure, your default under said lease; (ii) provide that Shakey's has the option, upon default or termination of this Agreement, and upon notice to the lessor, to assume all of your rights under the lease terms, including the right to assign or sublease; (iii) authorize and require the lessor to disclose to Shakey's, upon Shakey's request, sales and other information furnished to the lessor by you; (iv) include the lessor's express consent to your use of the Marks and initial signage as prescribed by Shakey's for the Restaurant; (v) prohibit you from subleasing or assigning all or any part of your occupancy rights; (vi) provide that Shakey's has the right to enter the Premises to make modifications necessary to protect its rights under this Agreement; (vii) provide that the lessor expressly approves and accepts Shakey's standard store design and storefront; (viii) provide that Shakey's may assume your rights as lessee and exercise any renewal option under the lease prior to any termination or non-renewal of the lease, as long as Shakey's cures your defaults under the lease; and (ix) provide that Shakey's has the right, upon termination or

expiration of this Agreement without renewal, to enter the Premises and remove any signs, decor items, advertising materials, forms and other materials and supplies which display any of the Marks. Subparagraph (ix) of this Section 3.A does not eliminate your obligation to comply with Section 16.B(4) upon termination or expiration of this Agreement. You shall deliver a copy of the signed lease, sublease or lease assignment to Shakey's within ten (10) days of its execution.

**B. SITE APPROVAL DISCLAIMER.**

NEITHER SHAKEY'S APPROVAL OF THE PREMISES NOR ANY INFORMATION COMMUNICATED TO YOU REGARDING SITE SELECTION CRITERIA FOR A SHAKEY'S RESTAURANT SHALL CONSTITUTE AN EXPRESS OR IMPLIED WARRANTY OR REPRESENTATION OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE SUITABILITY OF THE PREMISES FOR A SHAKEY'S RESTAURANT OR FOR ANY OTHER PURPOSE. SHAKEY'S APPROVAL OF THE PROPOSED SITE MERELY SIGNIFIES THAT SHAKEY'S IS WILLING TO GRANT A FRANCHISE FOR A SHAKEY'S RESTAURANT FOR SUCH LOCATION. SHAKEY'S IS NOT RESPONSIBLE FOR THE FAILURE OF THE PREMISES TO MEET YOUR EXPECTATIONS AS TO POTENTIAL REVENUES OR OTHERWISE. YOUR DECISION TO OPERATE A SHAKEY'S RESTAURANT AT THE PREMISES IS BASED SOLELY ON YOUR INDEPENDENT INVESTIGATION OF THE SUITABILITY OF THE PREMISES FOR A SHAKEY'S RESTAURANT.

**C. DEVELOPMENT OF THE PREMISES.**

You are responsible for developing the Restaurant. Shakey's will furnish you with prototype plans for a Shakey's Restaurant. You must modify Shakey's prototype plans at your expense to suit the Premises and ensure that they comply with applicable ordinances, building codes, permit requirements, and lease restrictions. You must submit any modified plans to Shakey's for Shakey's approval before developing the Premises. Upon Shakey's request, you will submit all revised or "as built" plans and specifications during the course of development. All development must be in accordance with the plans and specifications Shakey's has approved and must comply in all respects with applicable laws, ordinances and local rules and regulations. Shakey's will assist you in preparing Premises development guidelines as Shakey's deems appropriate and Shakey's may periodically inspect the Premises during its development. All prototype and modified plans for the Restaurant remain Shakey's property and you may claim no interest in them.

You agree, at your sole expense, to start and complete construction and equipping of the Restaurant within one hundred eighty (180) days after you sign the lease, sublease or purchase agreement for the Premises and to open the Restaurant within thirty (30) days from the date construction and equipping is completed. Completion of construction and equipping includes: (i) obtaining all required licenses and permits to construct and occupy the Restaurant and conduct business at the Premises; (ii) developing the Premises (including all outdoor features and landscaping of the Premises); (iii) installing all required fixtures, furnishings, equipment and signs; (iv) obtaining all customary contractors' sworn statements and partial and final waivers of lien for construction, remodeling, decorating and installation services; and (v) doing all other things required under this Agreement or by practical necessity to have the Premises ready to commence

business. You may not open the Restaurant for business until Shakey's notifies you in writing that the Premises meet Shakey's requirements for opening.

If you do not open your Restaurant to the public within the time period set forth above, in addition to Shakey's other rights pursuant to this Agreement, you must pay royalties and the Technology Fee, from that date until the date that the Restaurant is open to the public for business or this Agreement has been terminated, whichever is later, at the rate of \$1,050.00 per week.

Shakey's approval of your plans and specifications for the Premises, Shakey's guidance with the development of the Premises, and Shakey's approval to open the Restaurant is to assure that you comply with Shakey's standards and specifications, and shall not be construed as any express or implied representation or warranty that the Premises comply with any applicable laws, codes or regulations or that the construction is sound or free from defects. Shakey's criteria for approval or disapproval do not encompass technical, architectural or engineering considerations. Shakey's will have no liability with respect to construction of the Premises, nor shall Shakey's be responsible in any way for delays or losses occurring during the design, construction or other preparation of the Restaurant, whether caused by the condition of the Premises, the design, engineering, construction, equipping, decorating, or stocking of the Restaurant, or for any other reason. You acknowledge and agree that Shakey's does not, directly or indirectly, warrant or ensure that the design, decor, appearance, fixtures, layout, and/or other improvements of the Restaurant will guaranty your success or that you will achieve any level of revenues and/or profits.

**D. PURCHASE OF EQUIPMENT, FURNITURE, FIXTURES AND SIGNS.**

At your own expense, you must purchase or lease, and supervise the installation of, the equipment, furnishings, fixtures and signs for the Restaurant. You agree to use only the types or brands of fixtures, furniture, equipment, signs and supplies that Shakey's approves for Shakey's Restaurants as meeting Shakey's specifications and standards, including standards and specifications for quality, design, warranties, appearance, function, and performance. If Shakey's requires, you must purchase or lease approved types, brands, or models of fixtures, furniture, equipment, signs, and supplies only from suppliers designated or approved by Shakey's (which may include or be limited to Shakey's or its Affiliates). Shakey's may from time to time modify the list of approved types, brands, models and/or suppliers, and you may not, after receiving notice of such modification, reorder any item that is no longer approved or reorder any approved item from any supplier that is no longer approved.

You must notify Shakey's, and submit the information Shakey's requests, if you propose to purchase any fixtures, furniture, equipment, signs or supplies of a type, brand or model, or from a supplier (for items requiring supplier approval), that Shakey's has not previously approved. Shakey's will notify you within thirty (30) days after receiving all information it requires whether you are authorized to purchase and use the proposed product and/or supplier.

**E. OPENING ASSISTANCE.**

Shakey's will provide you with on-site assistance for a period of fourteen (14) days, consisting of both pre-opening and after opening assistance. Shakey's may, upon your request, provide you with additional assistance as it deems appropriate in light of your needs and the availability of

personnel for which you must pay the per diem fees and charges established by Shakey's from time to time.

#### **4. TRAINING AND GUIDANCE.**

##### **A. TRAINING.**

Prior to opening the Restaurant, you (and your Operating Owner and Operating Manager, if any) must attend and complete an initial training program on the operation of a Shakey's Restaurant to Shakey's satisfaction, which Shakey's will provide at such time(s) and place(s) as Shakey's designates. Shakey's may require you (or your Operating Owner or Operating Manager) and your general or assistant managers to attend and complete periodic or additional training programs to Shakey's satisfaction. Shakey's will not charge any fees for attendance for up to four (4) of the Restaurant's personnel, including the Operating Owner or Operating Manager, at any such training programs. You are responsible for all compensation and expenses incurred by you and your Restaurant's personnel in connection with all training programs, including travel, room, board, local transportation expenses and wages. You must replace any manager who fails to successfully complete any training program or who otherwise is not qualified to manage a Shakey's Restaurant.

##### **B. GUIDANCE.**

Shakey's may, but is not obligated to, furnish you with periodic guidance regarding the System, including System improvements. Such guidance may be furnished in the form of the Manual, electronic communications, bulletins and other written materials, telephone or in-person consultations at Shakey's offices or the Restaurant, or by other communications media. Shakey's may, at your request, provide special assistance for which you must pay the per diem fees and charges established by Shakey's from time to time.

##### **C. MANUAL.**

Shakey's will lend you one (1) copy of the Manual (which may be in electronic form), which you are to use during the Term solely to operate the Restaurant. You must comply with all mandatory standards, specifications and operating procedures and other obligations described in the Manual. Shakey's may modify the Manual from time to time to reflect changes in standards, specifications and operating procedures. Mandatory specifications, standards and operating procedures and other obligations Shakey's prescribes from time to time in the Manual, or otherwise communicates to you in writing, constitute provisions of this Agreement as if fully set forth in this Agreement. All references to this Agreement shall include all such mandatory specifications, standards and operating procedures and other obligations under this Agreement. You must keep your copy of the Manual, including the Approved Brands List and Specifications, current. If a dispute relating to the contents of the Manual develops, the master copy Shakey's maintains at Shakey's principal office will control. You acknowledge and agree that the Manual contains certain Confidential Information and therefore you agree not to copy or reproduce any part of the Manual, in any form, without the prior approval of Shakey's. If the Manual should be lost, Shakey's will supply you with a replacement copy at a cost of Five Hundred Dollars (\$500.00).

**D. FRANCHISEE ASSOCIATION.**

Shakey's recognizes your right to associate with other franchisees and to organize and participate in the lawful activities of a franchisee association. Shakey's may periodically communicate with any such franchisee association and seek its views on matters that Shakey's reasonably believes are significant to Shakey's Restaurants. Shakey's is not bound under any circumstances by the views of any such franchisee association. Shakey's retains unfettered authority and discretion within the bounds of Shakey's obligations under this Agreement in acting as Shakey's of Shakey's Restaurants. Nothing in this Agreement is intended to confer any third party beneficiary rights on any such franchisee association.

**5. MARKS.**

**A. OWNERSHIP AND GOODWILL OF MARKS.**

Shakey's owns/has the right to use the Marks. Your right to use the Marks is derived solely from this Agreement and is limited to you conducting business pursuant to and in compliance with this Agreement. Your unauthorized use of any Mark(s) constitutes a breach of this Agreement and an infringement of Shakey's rights in and to the Marks. This Agreement does not confer on you any goodwill or other interests in the Marks (other than the right to use the Marks under the terms of this Agreement). Your usage of the Marks and any goodwill established thereby inures to Shakey's exclusive benefit. All provisions of this Agreement applicable to the Marks apply to any additional or substitute trademarks, trade names, service marks, commercial symbols, logos and trade dress Shakey's periodically authorizes you to use. You may not at any time during or after the Term contest, or assist any other person in contesting, the validity or ownership of any of the Marks.

**B. FRANCHISEE'S USE OF MARKS.**

You agree to use the Marks as the sole identification of the Restaurant, provided you identify yourself as the Restaurant's independent owner in the manner prescribed by Shakey's. You shall not use the Marks as part of the name of any business entity, trade name or other legal name, or as part of any e-mail address, domain name or other identification of you in any electronic medium or with any prefix, suffix, or other modifying words, terms, designs or symbols (other than logos and additional trade and service marks licensed to you hereunder), or in any modified form, nor may you use any of the Marks in connection with the performance or sale of any unauthorized services or products or in any other manner not expressly authorized in writing by Shakey's. You agree to prominently display the Marks in the manner prescribed by Shakey's, at the Restaurant, on menus, on any vehicles used in the performance of Delivery Services and in connection with advertising and marketing materials. You shall not sell any goods from the Restaurant under any identification or trade name other than the Marks. You agree to give such notices of trade and service mark registration as Shakey's specifies and to obtain such fictitious or assumed name registrations as may be required under applicable law. You acknowledge that use of the Marks after termination or expiration of this Agreement constitutes unauthorized use of an identically or virtually indistinguishable mark.

**C. DISCONTINUANCE OF USE OF MARKS.**

If it becomes advisable at any time, in Shakey's sole discretion, for Shakey's and/or you to modify or discontinue use of any Mark and/or use one or more additional or substitute trademarks, trade names, service marks, commercial symbols, logos or trade dress, you agree comply with Shakey's directions within a reasonable time after notification. You must adopt such changes at your sole expense. Shakey's shall have no liability or obligation whatsoever with respect to your modification or discontinuance of any Mark or promotion of a substitute trademark, trade name, service mark, commercial symbol, logo or trade dress.

**D. NOTIFICATION OF INFRINGEMENTS AND CLAIMS.**

You must immediately notify Shakey's of any apparent infringement of, any challenge to your use of, or any claim by any person of any rights in, any Mark. You may not communicate with any person other than Shakey's and Shakey's counsel in connection with any such infringement, challenge or claim. Shakey's has sole discretion to take such action as Shakey's deems appropriate and shall have the right to exclusively control any litigation or U.S. Patent and Trademark Office or other administrative proceeding arising out of any such infringement, challenge or claim or otherwise relating to any Mark. If Shakey's undertakes to prosecute, defend and/or settle any such matter, Shakey's will have no obligation to indemnify or reimburse you for any fees or expenses relating to counsel you retain. You agree to execute any and all instruments and documents, render such reasonable assistance and do such acts and things as, in the opinion of Shakey's counsel, may be necessary or advisable to protect and maintain Shakey's interests in any litigation or U.S. Patent and Trademark Office or other proceeding or otherwise to protect and maintain Shakey's interests in the Marks.

**6. FEES.**

**A. INITIAL FRANCHISE FEE.**

Upon execution of this Agreement, you must pay to Shakey's an initial franchise fee in the amount of Thirty-Five Thousand Dollars (\$35,000.00). If you paid a development fee and you are in substantial compliance with the terms of the applicable area development agreement, that portion of the development fee, if any, attributable to the Restaurant, will be credited toward the initial franchise fee. The initial franchise fee for the Restaurant is fully earned by Shakey's upon Shakey's execution of this Agreement and is nonrefundable.

**B. ROYALTY FEES.**

You agree to pay to Shakey's an amount equal to five percent (5.0%) of Gross Sales (the "Royalty"), weekly on the Friday immediately following the week ending the preceding Sunday.

**C. TECHNOLOGY FEE.**

You agree to pay to Shakey's an amount equal to \$200 per month, payable on or before the 15<sup>th</sup> day of each month (the "Technology Fee"). The Technology Fee will be used by Shakey's to defray direct and indirect expenses Shakey's incurs in the development, implementation,

evaluation, modification, and monitoring the technological infrastructure and other technologies utilized in and for the System.

**D. INTEREST ON LATE PAYMENTS.**

All amounts which you owe Shakey's or any of Shakey's Affiliates, including, but not limited to, Royalty, Technology Fee and Advertising Fund contributions (as provided in Section 10.B), shall bear interest after their due date at the highest contract rate of interest permitted by law, not to exceed one and one-half percent (1.5%) per month. Notwithstanding the foregoing, your failure to pay all amounts when due is a material breach and grounds for termination of this Agreement, as provided for in Section 14.

**E. APPLICATION OF PAYMENTS.**

Notwithstanding any designation by you, Shakey's has sole discretion to apply any payments you make to any of your past due indebtedness for Royalties, Technology Fee, Advertising Fund contributions, advertising cooperative contributions, purchases from Shakey's or Shakey's Affiliates, or interest or any other indebtedness to Shakey's or Shakey's Affiliates.

**F. ELECTRONIC PAYMENT.**

You authorize Shakey's to draw drafts against your bank accounts for the full amount of the Royalty, Technology Fee, Advertising Fund and advertising cooperative contributions and for any other amounts that you owe to Shakey's or its Affiliates. Simultaneously with the execution of this Agreement, you must execute an authorization, in the form attached as Exhibit E, to enable Shakey's to do so. In addition, from time to time at Shakey's reasonable request, you must execute those other and further documents as Shakey's may require, to enable Shakey's to draw drafts against your bank accounts for such purposes.

**G. NO OFFSET**

You agree that your obligations to make payments as specified in this Agreement and any other agreement entered into with Shakey's and its Affiliates and the rights of Shakey's and its Affiliates to receive these payments, are absolute and unconditional, and are not subject to any abatement, reduction, set-off, defense, counterclaim or recoupment due or alleged to be due, or by reason of any past, present, or future claims that you have or may have against Shakey's and its Affiliates or against any other person whether related to Shakey's or not, for any reason. All payments required by this Agreement, together with the reports or statements required by this Agreement, must be received by Shakey's, by their respective due dates or same shall be deemed late.

**H. SECURITY INTEREST**

In order to secure the prompt performance of your obligations under this Agreement, you grant Shakey's and Shakey's takes a first priority security interest in all of your assets, including without limitation, all present and after acquired inventory and equipment wherever located, accounts, deposit accounts, chattel paper, instruments, contract rights (including your rights under this Agreement) and general intangibles, including payment intangibles, and all proceeds and

products thereof including insurance proceeds. You shall execute Shakey's form of Security Agreement attached hereto as Exhibit F. In order to perfect this security interest, you will also execute a UCC-1 Financing Statement, a sample attached hereto as Exhibit F-1. You authorize Shakey's to file a copy of the Security Agreement, the UCC-1 Financing Statement and any other documents that may be necessary to perfect the security interest granted herein, including extensions, with or without your signature. If requested by you, Shakey's will subordinate the security interest granted hereby to the security interest of a bona-fide, unrelated third party providing financing for the furniture, fixtures, equipment and like items at the Restaurant.

**7. RESTRICTIVE COVENANTS.**

**A. CONFIDENTIAL INFORMATION.**

Shakey's will disclose certain parts of Shakey's Confidential Information to you solely for your use in connection with the operation of the Restaurant. The Confidential Information is proprietary and includes Shakey's trade secrets. During the Term and thereafter: (i) you shall not acquire any interest in the Confidential Information, other than the right to use certain parts of the Confidential Information in accordance with the terms of this Agreement; (ii) you may not use the Confidential Information in any other business or capacity (you acknowledge such use is an unfair method of competition); (iii) you must exert your best efforts to maintain the confidentiality of the Confidential Information; (iv) you may not make unauthorized copies of any portion of the Confidential Information disclosed in written, electronic or other tangible form; and (v) you must implement all reasonable procedures Shakey's prescribes from time to time to prevent unauthorized use or disclosure of the Confidential Information. You agree to cause each of your principals and those managerial and other employees that Shakey's designates to execute and deliver to you a Confidentiality Agreement substantially in the form of Exhibit D attached hereto. An original of each executed Confidentiality Agreement shall be kept on the Premises at all times and available for Shakey's inspection during business hours. You shall, upon request of Shakey's, deliver such copies of any Confidentiality Agreement requested by Shakey's.

**B. IN-TERM NON-COMPETITION COVENANT.**

You acknowledge that Shakey's would be unable to protect the Confidential Information against unauthorized use or disclosure and would be unable to encourage a free exchange of ideas and information among Shakey's Restaurants if franchised owners of Shakey's Restaurants were permitted to hold interests in or perform services for any Competitive Businesses. During the Term, neither you nor your Owners, nor any member of your Immediate Family or the Immediate Family of any Owner, shall, without Shakey's prior consent:

(i) directly or indirectly (including, without limitation, through your or their Immediate Families) work for, own any legal or beneficial interest in, or render services or give advice to (a) any Competitive Business located anywhere; or (b) any entity located anywhere which grants franchises, licenses or other interests to others to operate any Competitive Business; or

(ii) divert or attempt to divert any business or customer of Shakey's Restaurants to any competitor by inducement or otherwise (including, without limitation, by leasing the

Premises to a Competitive Business), or do anything injurious or prejudicial to the goodwill associated with the Marks or the System.

The above restrictions do not apply to: (i) the ownership or operation of Shakey's Restaurants under franchise agreements with Shakey's; and (ii) the ownership of a class of securities that are listed on a stock exchange or traded on the over-the-counter market and that represent less than five percent (5%) of that class of securities.

**C. INFORMATION EXCHANGE.**

You acknowledge the importance to all Shakey's Restaurants of exchanging ideas, concepts, methods and techniques for a restaurant business conceived or developed by you and/or your officers, directors, managers and employees. Accordingly, you agree to fully and promptly disclose to Shakey's all such ideas, concepts, methods and techniques. If adopted by Shakey's for use by Shakey's Restaurants, Shakey's will have the right, without charge, to use and authorize others to use such ideas, concepts, methods and techniques.

**8. ORGANIZATION AND MANAGEMENT OF FRANCHISEE.**

**A. DISCLOSURE OF OWNERSHIP INTERESTS.**

If you are, or at any time become, after having first received the written approval of Shakey's, a partnership, corporation, limited liability company or other business entity, you and each of your Owners represents, warrants and agrees that: (i) Exhibit B correctly identifies each and every Owner, member, partner, officer and director; (ii) Exhibit B completely and accurately describes the nature and extent of each Owner's interest in you; and (iii) you will promptly furnish an updated Exhibit B to Shakey's, so that Exhibit B (as revised and signed) is at all times current, complete and accurate. Each person who is or becomes an Owner will execute an agreement in the form of Exhibit C-1, undertaking to be bound jointly and severally by the terms of this Agreement and an agreement in the form of Exhibit C-2, with regard to confidentiality and non-competition. Each Owner must be an individual acting in his own capacity, unless Shakey's otherwise approves.

**B. OPERATING OWNER/MANAGEMENT OF BUSINESS.**

If you are, or at any time become, a partnership, corporation, limited liability company or other business entity, you shall designate in Exhibit B as the "Operating Owner" an individual approved by Shakey's who shall: (i) own and control, or have the right to own and control (subject to conditions reasonably acceptable to Shakey's), not less than ten percent (10%) of the equity and voting rights in you if you own and operate more than one Shakey's Restaurant or not less than twenty-five percent (25%) of the equity and voting rights in you if you own a single Shakey's Restaurant; (ii) have authority to bind you regarding all operational decisions with respect to the Restaurant; and (iii) have completed Shakey's initial training program to Shakey's satisfaction.

You or the Operating Owner shall exert your full-time and best efforts to the development and operation of the Restaurant and all other Shakey's Restaurants you own under franchise agreement(s) with Shakey's and shall not engage in any other business or activity, directly or indirectly, that requires substantial management responsibility or time commitments or otherwise

may conflict with your obligations under this Agreement without the prior written consent of Shakey's. The Restaurant at all times must be under the on-site supervision of you or the Operating Owner, or, if you own more than one Shakey's Restaurant, by the Operating Manager who has completed Shakey's training program to Shakey's satisfaction.

**9. RESTAURANT IMAGE AND OPERATING STANDARDS.**

**A. CONDITION, APPEARANCE AND REBUILDING OF RESTAURANT.**

You agree to maintain the Restaurant's condition and appearance as an attractive, clean and efficiently operated restaurant, offering high quality food products and beverages, efficient and courteous service, and pleasant ambiance. You agree to effect such maintenance and modifications of the Restaurant, including additions to its layout, decor, and general theme as Shakey's requires from time to time, including, without limitation, replacement of worn out or obsolete fixtures, equipment, furniture, signs and utensils, repair of the interior and exterior and appurtenant parking areas, and periodic cleaning and redecorating. If at any time, in Shakey's judgment, the general state of repair, appearance or cleanliness of the Restaurant or its fixtures, equipment, furniture, signs or utensils, does not meet Shakey's standards as set forth in the Manual or otherwise conveyed to you by Shakey's from time to time, Shakey's will so notify you and specify the action that you must take to correct such deficiency. If you fail or refuse, within ten (10) days after receiving such notice, to initiate and thereafter continue in good faith and with due diligence a bona fide program to complete such required maintenance, Shakey's will have the right to terminate this Agreement in accordance with Section 14.

You must upgrade, remodel, expand, redecorate, equip and/or refurbish the Premises and the Restaurant whenever Shakey's deems it necessary according to plans and specifications provided by Shakey's to reflect changes in the operations of Shakey's Restaurants or the addition of new products as determined by Shakey's after performing market testing. However, Shakey's will not require substantial remodeling more often than every five (5) years during the Term.

If the Restaurant is damaged or destroyed by fire or other casualty, you must, within thirty (30) days, initiate (and continue until completion) all repairs or reconstruction to restore the Restaurant to its original condition. If, in Shakey's reasonable judgment, the damage or destruction is of such a nature that it is feasible for you, without incurring substantial additional costs, to repair or reconstruct the Restaurant in accordance with the then standard Shakey's Restaurant layout and decor specifications, Shakey's may require you to repair or reconstruct the Restaurant in accordance with those specifications.

**B. ALTERATIONS TO THE RESTAURANT.**

You will make no alterations to the Restaurant, nor any replacements, relocations or alterations of fixtures, equipment, furniture or signs, unless such alterations are in full compliance with Shakey's then current standards and specifications. If you make any alterations to the Restaurant without Shakey's prior written approval, Shakey's will have the right to terminate this Agreement in accordance with Section 14.

**C. UNIFORM IMAGE.**

You agree that the Restaurant will offer for sale such food, beverage and other products and services that Shakey's periodically determines are appropriate for Shakey's Restaurants. You further agree that the Restaurant will not, without Shakey's prior written approval, offer any products or services not then authorized by Shakey's for Shakey's Restaurants nor be used for any purpose other than the operation of a Shakey's Restaurant in compliance with this Agreement.

**D. FOOD PRODUCTS, BEVERAGES, SUPPLIES AND MATERIALS.**

You acknowledge that the reputation and goodwill of Shakey's Restaurants is based on, and can only be maintained by, the sale of distinctive high quality products and services. You therefore agree that the Restaurant will: (i) use only approved ingredients in the preparation of food products and beverages; (ii) prepare and offer for sale only approved food products and beverages; (iii) use only approved plates, cups, utensils, uniforms, menus, menu boards, forms, packaging materials, labels and other supplies; and (iv) only use or offer for sale other products and services that conform to Shakey's specifications and quality standards and/or, if Shakey's requires, are purchased from suppliers Shakey's approves. Shakey's may modify the list of approved brands and/or suppliers, and you may not, after notice of such modification, reorder any brand or from any supplier which is no longer approved. An approved supplier may be an Affiliate of Shakey's. Shakey's may in its sole discretion, require that supplies be purchased exclusively from Shakey's or from approved suppliers or distributors.

Shakey's may approve a single distributor or other supplier for any product and may approve a distributor or other supplier only as to certain products. Shakey's may concentrate purchases with one or more distributors or suppliers to obtain lower prices and/or the best advertising support and/or services for any group of Shakey's Restaurants. Approval of a distributor or other supplier may be conditioned upon requirements relating to the frequency of delivery, standards of services (including prompt attention to complaints) or other criteria, and concentration of purchases, as set forth above, and may be temporary, pending a further evaluation of such distributor or other supplier by Shakey's.

If you propose to use any brand and/or supplier which is not then approved, you must first notify Shakey's and submit sufficient information, specifications and samples concerning such brand and/or supplier for Shakey's to determine whether the proposed brand complies with Shakey's specifications and standards and/or such supplier meets Shakey's approved supplier criteria. Shakey's will have the right to charge you a reasonable fee equal to the costs that it incurs for making such determination, with a maximum of \$10,000. Shakey's will notify you within thirty (30) to ninety (90) days after its receipt of all requested information, documentation and samples, whether the Restaurant is authorized to purchase the proposed type, brand and/or model of such product or to purchase from the proposed supplier. Shakey's may from time to time prescribe procedures for the submission of requests for approved brands or suppliers and obligations which approved suppliers must assume (which may be incorporated in a written agreement). Shakey's may impose limits on the number of suppliers and/or brands for any of the foregoing items.

You must at all times maintain an inventory of approved food products, beverages, ingredients and other products sufficient in quantity, quality and variety to realize the Restaurant's full potential. Shakey's may at any time request information with respect to the inventory maintained by you including velocity reports directly from a vendor and may inspect such inventory during the Restaurant's business hours.

During any period that you are in default under the terms of this Agreement, Shakey's may withhold proprietary items from you and instruct the supplier of such items to do likewise. In such event, Shakey's will incur no liability or obligation to you for any loss you may suffer. Failure to use proprietary products in the operation of your Restaurant, constitutes a material breach of this Agreement, allowing Shakey's to terminate your rights hereunder.

Shakey's may conduct market research and tests to determine consumer trends and salability of new food products and services. If you agree to participate in Shakey's market research programs, you must cooperate with Shakey's by following Shakey's specifications regarding such program and by providing Shakey's with timely reports and other relevant information regarding such market research. You must offer and sell a reasonable quantity of, and make a reasonable effort to sell, these test products which will be provided to you by Shakey's free of charge during the limited test period.

#### **E. SPECIFICATION, STANDARDS AND PROCEDURES.**

You acknowledge that all aspects of the Restaurant's interior and exterior appearance, layout, decor, services and operation of the Restaurant are important to Shakey's and are subject to Shakey's specifications and standards. You must comply with all mandatory specifications, standards and operating procedures established by Shakey's (whether contained in the Manual or any other written communication to you) relating to the appearance, function, cleanliness and operation of a Shakey's Restaurant, including but not limited to: (i) type, quality, taste, weight, dimensions, ingredients, uniformity, and manner of preparation, packaging and sale of food products and beverages; (ii) sales procedures and customer service; (iii) advertising and promotional programs; (iv) employees' appearance and dress; (v) Restaurant safety, maintenance, appearance, cleanliness, sanitation, standards of service and operation; (vi) days and hours of operation; (vii) bookkeeping, accounting and record keeping systems and forms; (viii) the proper display of point of purchase materials and menu boards; and (ix) standards, specifications, operating procedures and rules for the performance of Delivery Services, including, without limitation, the condition and appearance of delivery vehicles and related equipment, the maintenance of quality and freshness for delivered products, and prohibited promotional programs for Delivery Services. Mandatory specifications, standards and operating procedures prescribed from time to time by Shakey's in the Manual, or otherwise communicated to you in writing, shall constitute provisions of this Agreement as if fully set forth herein. All references herein to this Agreement shall include all such mandatory specifications, standards and operating procedures.

#### **F. COMPLIANCE WITH LAWS AND GOOD BUSINESS PRACTICES.**

You must secure and maintain in force in your name all required licenses, permits and certificates relating to operating the Restaurant, including, without limitation, all licenses and permits required to serve alcoholic beverages and to provide Delivery Services. You must operate

the Restaurant, and will be solely responsible to ensure that the Restaurant is operated, in full compliance with all applicable laws, ordinances and regulations, including, without limitation, all government regulations relating to health and sanitation, worker's compensation insurance, unemployment insurance and withholding and payment of federal and state income taxes, social security taxes and sales taxes. You must notify Shakey's in writing within five (5) days after: (i) the commencement of any legal or administrative action, or the issuance of any order of any court, agency or other governmental instrumentality, which may adversely affect your financial condition or the Restaurant's development, occupancy or operation; or (ii) you receive a notice of violation or alleged violation of any law, ordinance or regulation, including those relating to health or sanitation at the Restaurant.

All of your advertising and promotion must be completely factual and must conform to the highest standards of ethical advertising. You must adhere to the highest standards of honesty, integrity, fair dealing and ethical conduct in all your dealings with Shakey's, customers, suppliers, and the public. You agree to refrain from any business or advertising practice which may be injurious to Shakey's business, other Shakey's Restaurants, or the goodwill associated with the Marks and the System.

To enable Shakey's to comply with U.S. Executive Order 13224, you hereby represent and warrant to Shakey's that neither you, nor any of your Owners, directors, managers, officers, employees, representatives and agents (collectively, the "Included People"), (i) is, or is owned or controlled by, a "suspected terrorist," as defined in Executive Order 13224 and (ii) to the best of your knowledge, have any of the Included People been designated a "suspected terrorist," as defined in Executive Order 13224.

#### **G. RESTAURANT MANAGEMENT AND PERSONNEL.**

The Restaurant must at all times be under your direct, on-premises supervision or the direct, on-premises supervision of the Operating Owner or Operating Manager who has completed Shakey's training program to Shakey's satisfaction. You or the Operating Owner must at all times remain active in overseeing the operations of the Restaurant. You shall designate any successor Operating Owner or Operating Manager, who must successfully complete Shakey's training program and otherwise meet Shakey's approval. You must personally be available, however, throughout the Term, to meet periodically with Shakey's representatives at such time and place as Shakey's shall designate. All employees of the Restaurant shall be your employees and not ours and you shall be exclusively responsible for their employment, including recruiting, hiring, direction, scheduling, discipline, supervision, discharge, compensation and relevant day-to-day workplace behavior. You shall be solely responsible for their proper training in the Restaurant operation. You shall establish an employee training program for all employees at the Restaurant. We disclaim any responsibility or obligation for any of these functions, as operation of the Restaurant is solely your obligation.

#### **H. INSURANCE.**

During the Term, you must maintain in force under policies of insurance issued by carriers Shakey's approves: comprehensive general liability insurance, including personal injury, products and property damage liability, Dram Shop coverage, with limits of at least Two Million Dollars

(\$2,000,000); Two Million Dollars (\$2,000,000) individual personal liability; and at least Two Million Dollars (\$2,000,000) property damage liability, workers' and unemployment compensation insurance, as well as other insurance as may be required by statute or rule of the state in which the Restaurant is located. You also must maintain the insurance coverage that Shakey's requires relating to Delivery Services. Shakey's may change such coverage and/or require different or greater coverage as prescribed from time to time. Each insurance policy must name Shakey's and Shakey's Affiliates as additional insureds, must provide for thirty (30) days' prior written notice to Shakey's of any material modification, cancellation or expiration, and must include such other provisions as Shakey's may from time to time require.

You must furnish Shakey's, upon Shakey's request, with such evidence of insurance coverage and payment of premiums as Shakey's requires. If you fail or refuse to maintain any required insurance coverage, or to furnish satisfactory evidence of it, then Shakey's (at its option and in addition to its other rights and remedies hereunder) may obtain insurance on your behalf. You must fully cooperate with Shakey's in its efforts to obtain insurance, promptly execute all forms or instruments required to obtain or maintain insurance, allow any inspections of the Restaurant which are required to obtain or maintain insurance, and pay Shakey's, on demand, any costs and premiums that Shakey's incurs.

Your obligations to maintain insurance coverage shall not be affected in any manner by reason of any separate insurance Shakey's maintains, nor shall any such insurance coverage relieve you of any obligations under Section 17.B of this Agreement.

## **10. ADVERTISING AND PROMOTION.**

### **A. GRAND OPENING PROGRAM.**

You agree to conduct a grand opening advertising and promotional program for the Restaurant which shall take place on the date(s) scheduled by you and approved by Shakey's. You must spend such amount as is required in order to institute the grand opening advertising and promotional program. You shall forward to Shakey's receipts and other evidence of compliance with this Section as Shakey's requests prior to opening of the Restaurant. The grand opening advertising and promotional program shall be in addition to advertising and promotion conducted pursuant to Paragraphs B, C, and D of this Section and must be approved by Shakey's in writing at least fourteen (14) days prior to its implementation.

### **B. ADVERTISING FUND.**

Recognizing the value of advertising to the goodwill and public image of Shakey's Restaurants, we or our designee administer an Advertising Fund for the creation and development of advertising and related programs and materials. You must contribute to the Advertising Fund a percentage of Gross Sales of the Restaurant designated by Shakey's, not to exceed five percent (5%). Shakey's will give you ninety (90) days written notice before any increase in the Advertising Fund contribution becomes effective. The Advertising Fund contribution is payable on or before the twentieth (20th) day of each month, based on the Gross Sales of the immediately preceding month. Shakey's Restaurants owned by Shakey's and its Affiliates shall contribute to the Advertising Fund on the same basis.

Shakey's shall retain and use a portion of the aggregate of each month's contributions to the Advertising Fund for the purposes as described herein. The costs of production of television and radio commercials (including, but not limited to, associated talent and talent residual costs), newspaper advertising material, promotional materials, Internet marketing, audit and agency costs (including, but not limited to, administrative expenses charged by audit and agency personnel), freight, creative/marketing research fees and travel costs charged by audit and agency personnel, shall be charged against contributions to the Advertising Fund. A portion of the contributions to the Advertising Fund may be paid to an advertising cooperative from time to time in Shakey's discretion or used for additional local advertising programs for such time period as Shakey's shall designate.

Shakey's or its designee may seek the advice of Shakey's Restaurant owners by formal (e.g. advertising advisory committee or other representative body) or informal means regarding creative concepts and media to be used for marketing programs financed by the Advertising Fund. However, final authority with respect to all marketing programs financed by the Advertising Fund rests with Shakey's or its designee, and Shakey's or its designee has sole discretion over all aspects of such programs, including national or regional media, creative concepts, materials, and endorsements. The Advertising Fund is intended to maximize general recognition of the Marks and System for the benefit of Shakey's Restaurants. Shakey's undertakes no obligation to ensure that expenditures by the Advertising Fund are proportionate or equivalent to contributions to the Advertising Fund by Shakey's Restaurant franchisees or that any restaurant will benefit directly or in proportion to its contribution(s) to the Advertising Fund from the conduct of marketing programs or the placement of advertising. Except as expressly provided in this Paragraph B, Shakey's assumes no direct or indirect liability or obligation to you with respect to the maintenance, direction or administration of the Advertising Fund. The Advertising Fund is not an asset of Shakey's nor a trust, and Shakey's does not assume a fiduciary obligation to you for administering or controlling the Advertising Fund or for any other reason. Shakey's may furnish you with marketing, advertising and promotional materials at cost, plus any related administrative, shipping, handling and storage charges. If you are in default of any provision of this Agreement, marketing materials developed through the Advertising Fund will not be made available to you until the default is cured.

Shakey's or its designee will account for the Advertising Fund separately from Shakey's other funds. Shakey's will not use the Advertising Fund to defray Shakey's general operating expenses, except for reasonable salaries, administrative costs and overhead Shakey's or its designee incurs in activities reasonably related to the administration of the Advertising Fund and its marketing programs, including without limitation, conducting market research, preparing advertising and marketing materials, and collecting and accounting for contributions to the Advertising Fund, travel and meetings. All interest earned on monies contributed to the Advertising Fund will be used to pay advertising costs of the Advertising Fund before the other assets of the Advertising Fund are expended. Shakey's or its designee may spend in any fiscal year an amount greater or less than the aggregate contributions of all Shakey's Restaurants to the Advertising Fund in that year. The Advertising Fund may borrow from Shakey's or other lenders to cover deficits or to invest any surplus for future use. Shakey's or its designee will prepare quarterly statements and upon written request, furnish to you an annual statement of monies collected and costs incurred by the Advertising Fund. Except as otherwise expressly provided in

this Section, Shakey's assumes no direct or indirect liability or obligation for maintenance, direction or administration of the Advertising Fund.

Shakey's reserves the right, at any time and from time, to suspend contributions of one or more franchisees to, and operations of, the Advertising Fund for such periods that it determines to be appropriate and to terminate the Advertising Fund upon written notice to you. All unspent monies on the date of termination shall be distributed to Shakey's, its Affiliates and franchisees in proportion to their respective contributions to the Advertising Fund during the preceding twelve (12) month period. Shakey's has the right to reinstate the Advertising Fund upon the same terms and conditions set forth herein upon thirty (30) days' prior written notice to you.

### **C. ADVERTISING BY FRANCHISEE.**

In addition to the contributions to the Advertising Fund required under Paragraph B of this Section and the cooperative advertising contributions under Paragraph D of this Section, you must make monthly expenditures for local advertising and promotion of the Restaurant in the minimum amount equal to one percent (1%) of Gross Sales. Advertising expenditures include amounts you expend for advertising media, such as television, radio, newspaper, billboards, posters, direct mail, yellow pages, collateral promotional items, advertising on public vehicles (such as cabs and buses) and, if not provided by Shakey's, the cost of producing approved materials necessary to participate in these forms of media whether now or in the future. Advertising expenditures shall not include payments for items that Shakey's, in its reasonable judgment, deems inappropriate for meeting the minimum advertising requirement, including, without limitation, permanent on-premises signs and menu boards, lighting, menus, premiums, discounts, free offers, employee incentive programs, and other similar items.

At least two (2) weeks prior to using them, you must submit to Shakey's for approval, samples of all proposed advertising and promotional materials not then approved in its proposed form by Shakey's and which vary from Shakey's standard advertising and promotional materials. If Shakey's does not disapprove the materials within two (2) weeks after receiving all information it requires, they are deemed approved. You may not use any advertising or promotional materials Shakey's has disapproved.

### **D. ADVERTISING COOPERATIVES.**

Shakey's may, at its option, establish an advertising cooperative for Shakey's Restaurants in your local or regional area. Once established, you will contribute an amount equal to up to two and four-tenths percent (2.4%) of monthly Gross Sales. The amount of your contribution will be established by the applicable advertising cooperative, subject to the limitation in the immediately preceding sentence. Contributions to the applicable advertising cooperative are payable on or before the twentieth (20th) day of each month, based on the Gross Sales of the immediately preceding month, unless another day of each month is prescribed by the applicable advertising cooperative. Shakey's may contribute a portion of the advertising monies paid to Shakey's under section 10.B, to a local cooperative to which you belong. You agree to actively participate in and attend meetings of such advertising cooperative and abide by the bylaws (or other organizational documents) promulgated by such cooperative at Shakey's direction. Shakey's Restaurants in such local or regional area owned by Shakey's or Shakey's Affiliates shall contribute to the cooperative

on the same basis as those owned by franchisees. Members will include other franchisees and Shakey's Restaurants owned by Shakey's or an Affiliate, if any, in your area. The geographic area for membership in the cooperative will be defined by Shakey's. Shakey's has the power to require the cooperative to be formed, changed, dissolved or merged. You agree to join with other franchisees in the advertising cooperative that you are required to join in joint advertising plans and participate in such plans whenever a majority of the restaurants in that cooperative agree to a plan and when such plan calls for the expenditure of advertising and other funds. If Shakey's believes the cooperative is not capable of generating enough funding to participate in general market media advertising (television, radio, newspaper, etc.) then at the discretion of Shakey's, franchisee contributions to the advertising cooperative may be rebated back to the individual franchisee for use in conjunction with local marketing support in addition to the requirements of Section 10.C outlined above. The cooperative shall prepare un-audited annual financial statements and these will be available to you upon request. The bylaws and/or other organizational documents will be available for your review upon request.

**E. ELECTRONIC ADVERTISING.**

You acknowledge and agree that you will not establish or create a Website on the Internet or have any other Internet presence in connection with the Restaurant, System or Marks without the express prior written consent of Shakey's, which consent may be given or withheld in Shakey's sole discretion. For these purposes, "Website" as defined in Section 1.C, shall also include any networking or social website such as Facebook, LinkedIn, Twitter or My Space, unless you obtain Shakey's consent for such use.

Shakey's will own all intellectual property and other rights in the Website including your webpage, and all information it contains, including, without limitation, the domain name or URL for your webpage, the log of "hits" by visitors, and any personal or business data that visitors supply. Shakey's will retain all rights relating to the Website and has the absolute right to alter or terminate the Website. Your general conduct on the Website and specifically your use of the Marks or any advertising on the Web Site (including the domain name and any other Marks Shakey's may develop as a result of participation in the Website) will be subject to the provisions of this Agreement. You acknowledge that certain information obtained through your participation in the Website may be considered Confidential Information, including passwords, access codes and identification codes. You are responsible for ensuring that your employees maintain the same level of confidentiality. You may not separately register any domain name containing any of the Marks nor participate in any website that markets goods and services similar to a Restaurant.

You further acknowledge and agree that the following are to be conditions to Shakey's granting you permission to establish and maintain a Website or other Internet presence:

- (i) upon request by Shakey's, you will submit to Shakey's for its approval, which approval may be given or withheld in Shakey's sole discretion, all data information, design and layout that you wish to use in your Website, and, until such time as Shakey's gives its prior written consent to the use of such, you will not utilize same in any Website;
- (ii) You will obtain Shakey's prior written approval before any copyright information

is placed on your Website;

- (iii) You acknowledge and agree that your Website may be monitored by Shakey's and any and all contents of the Website, though earlier approved, may be disapproved and required to be removed from the Website;
- (iv) You acknowledge and agree that the Website shall state that the use of any trademarks or copyrights is not an assertion of ownership, but rather a license from Shakey's;
- (v) You acknowledge and agree that upon termination of this Agreement that You will relinquish any and all rights in the Website, the domain name, and will within five (5) days of termination of this Agreement, dismantle the Website and any frames and links between your Website and any other website(s).

## **11. RECORDS AND REPORTS.**

### **A. RECORDS AND COMPUTER SYSTEMS.**

You agree to maintain and preserve for five (5) years from the date of their preparation full, complete and accurate bookkeeping records relating to the Restaurant's operation (including invoices and records relating to advertising expenditures) and to maintain the accounts in accordance with the standard chart of accounts furnished or required by Shakey's. You also agree to maintain copies of sales tax returns and the portions of your state and federal income tax returns that reflect the Restaurant's operation. All bookkeeping records relating to the Restaurant must be kept at the Premises, unless otherwise approved by Shakey's. Shakey's has the right to inspect such materials at any time without prior notice.

You must record all sales on a computer-based point of sale system designated or approved by Shakey's. Shakey's may require you to purchase certain interface software and/or hardware that is compatible with Shakey's data management systems and agree to polling by Shakey's and bear cost of such polling. Additionally, as specified in section 12.A below, a broadband connection to the internet will be provided by you and at your cost for any data collection activities deemed necessary by Shakey's. Accounting and business records will be accessible electronically to Shakey's.

### **B. PERIODIC REPORTS.**

On such forms and in the formats Shakey's may prescribe from time to time, you must furnish to Shakey's such reports Shakey's requests, including but not limited to the following: (i) a report of Gross Sales complete with corresponding register "Z tapes" or appropriate alternative reports reflecting non-resettable sales totals no later than the twentieth (20th) day of each month for the immediately preceding calendar month; (ii) within thirty (30) days of the end of each calendar quarter, a quarterly profit and loss statement for the Restaurant for such calendar quarter, a year-to-date profit and loss statement and a balance sheet as of the end of such calendar quarter; (iii) within ninety (90) days after the end of each calendar year, a year-end balance sheet and income statement and statement of cash flow of the Restaurant for such year, reflecting all year-end adjustments and accruals; and (iv) such other information as Shakey's may designate from

time to time, including food and labor cost reports and sales and income tax statements. You must sign and verify each report and financial statement in the manner Shakey's prescribes. Shakey's has the right to disclose data derived from such reports and statements if Shakey's considers such disclosure is necessary or advisable. Shakey's reserves the right to require that your annual financial statements be audited at your expense by an independent certified public accountant. Shakey's may require a 13-4 week reporting period.

**C. E-MAIL**

You must maintain an e-mail address for purposes of communicating with Shakey's and others. You must inform Shakey's of your e-mail address promptly upon the execution of this Agreement and if your e-mail address is changed. You should check and respond to your email on a daily basis (except for weekends); provided however, that the timeliness of your e-mail review and responses must be consistent with reasonable business practices and must not cause Shakey's or other franchisees to be unable to communicate with you in a timely manner. Shakey's may require your email to be routed through Shakey's server, at your cost and expense.

**12. INSPECTIONS AND AUDITS.**

**A. FRANCHISOR'S RIGHT TO INSPECT THE RESTAURANT.**

Shakey's designated agents have the right at any time and without prior notice to you to: (i) inspect the Restaurant; (ii) observe and photograph, audio tape and video tape the operations of the Restaurant; (iii) remove samples of any food and beverage, materials or supplies for testing and analysis; (iv) interview personnel and customers of the Restaurant; and (v) inspect and copy any books, records and documents relating to the development, ownership, lease, occupancy, or operation of the Restaurant or your ownership or operation. You agree to cooperate fully with Shakey's in connection with such activities.

Upon notice by Shakey's or its agents, and without limiting Shakey's other rights under this Agreement, you shall take such steps as may be necessary to correct immediately any deficiencies detected during any such inspection. The foregoing shall be in addition to such other remedies available to Shakey's hereunder and under applicable law.

**B. FRANCHISOR'S RIGHT TO AUDIT.**

Shakey's has the right at any time during business hours, and without prior notice to you, to inspect and audit, or cause to be inspected and audited, the business records, bookkeeping and accounting records, sales and income tax records and returns and other records of the Restaurant. You must fully cooperate with representatives and independent accountants that Shakey's hires to conduct the inspection or audit. If any inspection or audit discloses an understatement of Gross Sales, then you must pay Shakey's, within seven (7) days after receiving the inspection or audit report, the Royalties, Technology Fee and Advertising Fund contribution due on the amount of such understatement, plus interest (as provided in Section 6.D) from the date originally due until the date of payment. Further, if such inspection or audit is made necessary by your failure to furnish reports, records or information on a timely basis, or if Shakey's determines that an understatement of Gross Sales for the period of any audit is greater than three percent (3%), you must reimburse Shakey's for the total cost of such audit or inspection, including without limitation

the charges of attorneys and any independent accountants, and the travel expenses, room and board and applicable per diem charges for employees of Shakey's, with a maximum of \$5,000, exclusive of attorneys' and accountants' fees. The above remedies shall be in addition to Shakey's other remedies and rights under this Agreement or applicable law.

### **13. TRANSFER.**

#### **A. BY FRANCHISOR.**

This Agreement is fully transferable by Shakey's, whether by operation of law or otherwise, without your approval or consent, and shall inure to the benefit of any transferee or other legal successor to Shakey's interest herein. In the event of any assignment or transfer by Shakey's, you shall agree to such modifications as will facilitate such assignment or transfer; provided, however, that any such modifications shall not materially add to or change your obligations or affect your rights.

#### **B. FRANCHISEE MAY NOT TRANSFER WITHOUT APPROVAL.**

The rights and duties created by this Agreement are personal to you or, if you are a corporation, partnership, limited liability company or other business entity, to your Owners. Shakey's has granted the franchise to you (or your Owners) in reliance upon the individual or collective character, skill, aptitude, attitude, business ability and financial capacity of you (or your Owners). Accordingly, neither this Agreement nor the franchise (or any interest therein), nor any part or all of the ownership of you (or your Owners) or the Restaurant (or any interest therein), may be transferred without the prior written approval of Shakey's, which shall not be unreasonably withheld and any such transfer without such approval shall constitute a breach hereof and convey no rights to or interests in this Agreement, the franchise, you (or your Owners), or the Restaurant. As used in this Agreement, the term "transfer" shall mean and include the voluntary, involuntary, direct or indirect sale, gift, assignment, transfer, sublease, collateral assignment, grant of a security, collateral or conditional interest, inter-vivos transfer, or testamentary or other disposition of: (i) this Agreement; (ii) any interest in or right under this Agreement; or (iii) any form of ownership interest in either you or the assets, revenues or income of the Restaurant, including without limitation: (a) any transfer, redemption or issuance of a legal or beneficial ownership interest in the capital stock of, or a partnership or other ownership interest in, you (or your Owners) or of any interest convertible to or exchangeable for capital stock of, or a partnership or other ownership interest in, you (or your Owners); (b) any merger or consolidation of you or your Owners, whether or not you are the surviving entity; (c) any transfer in, or as a result of, a divorce, insolvency, entity dissolution proceeding or otherwise by operation of law; (d) any transfer upon your (or your Owner's) death by will, declaration of or transfer in trust or under the laws of intestate succession; or (e) any foreclosure upon the Restaurant or your transfer, surrender or loss of possession, control or management of the Restaurant.

#### **C. CONDITIONS FOR APPROVAL OF TRANSFER.**

Provided Shakey's has not exercised its rights under Section 13.E, you may transfer this Agreement and the franchise provided the transfer meets all of the restrictions, requirements and

conditions Shakey's imposes on the transfer, the transferor(s) and/or the transferee(s), including without limitation, the following:

(i) You and your Owners and Affiliates must be in compliance with all the terms of this Agreement and all other agreements with Shakey's or its Affiliates, and you and your Owners must be current with respect to all amounts due and owing Shakey's, its Affiliates and any advertising cooperative designated by Shakey's;

(ii) The proposed transferee, or its Owners (if the proposed transferee is a corporation, partnership, limited liability company or other business entity), must possess good character and reputation, have sufficient business experience, aptitude and financial resources to operate the Restaurant, and otherwise meet Shakey's then applicable standards for Shakey's Restaurant franchisees;

(iii) The transferee or its Operating Owner and its manager must have completed Shakey's training program to Shakey's satisfaction;

(iv) The transferee and its Owners must execute Shakey's then current standard form of franchise agreement and related documents used in the state in which the Restaurant is located (which may provide for different royalties, technology fee, advertising contributions and expenditures, duration and other rights and obligations from those provided for in this Agreement);

(v) You or the transferee must pay Shakey's the then current transfer fee in an amount not to exceed Five Thousand Dollars (\$5,000.00) which is due upon submission of your application for approval of the transfer. In the event the transfer is not consummated, Shakey's will retain Two Thousand Five Hundred Dollars (\$2,500.00) and refund any remainder;

(vi) Except to the extent limited or prohibited by applicable law, you and your Owners and Affiliates must execute a general release, in form and substance satisfactory to Shakey's, of any and all claims against Shakey's, Shakey's Affiliates and their respective stockholders, members, officers, directors, managers, employees, agents, attorneys, accountants, successors and assigns;

(vii) Shakey's must not have disapproved the material terms and conditions of the transfer (including, without limitation, the price and terms of payment) on the basis that they are so burdensome as to affect adversely the transferee's ability to operate the Restaurant;

(viii) If you or any of your Owners or Affiliates finance any part of the sales price of the transferred interest, you and/or your Owners or Affiliates must agree that all obligations of the transferee, and security interests reserved by any of them in the assets of the Restaurant, shall be subordinate to the transferee's obligations to pay all amounts due to Shakey's and Shakey's Affiliates;

(ix) You and your Owners must execute a non-competition covenant, in form and substance satisfactory to Shakey's and in favor of Shakey's agreeing that for a period of three (3) years, starting on the effective date of the transfer, you and your Owners will not directly or indirectly (including, without limitation, through your or their Immediate Families) own any legal or beneficial interest in, or render services or give advice to: (i) any Competitive Business located

in the Protected Area, as defined in Exhibit A; (ii) any Competitive Business located within a three (3) mile radius of any other Shakey's Restaurant then operating or under construction; or (iii) any entity granting franchises, licenses or other interests to others to operate any Competitive Business. The above restrictions do not apply to: (a) owning or operating other Shakey's Restaurants under franchise agreements with Shakey's; or (b) owning securities listed on an exchange or traded on the over-the-counter market and that represent less than five percent (5%) of that class of securities;

(x) You and your Owners and Affiliates must execute other documents that Shakey's reasonably requires to protect its rights under this Agreement; and

(xi) If required by Shakey's, upgrade and/or remodel the Restaurant and upgrade, remodel and/or replace its fixtures, equipment, furniture, signs and utensils in compliance with the specifications and standards then applicable for Shakey's Restaurants.

Shakey's approval of a transfer of the franchise does not constitute: (a) a representation as to the fairness of the terms of any agreement between you or your Owners and the transferee or as to the prospects of success of the Restaurant following the transfer; or (b) a waiver of any claims against you or your Owners or a waiver of Shakey's right to demand the transferee's exact compliance with the terms and provisions of the documents to be executed as specified in Section 13.C. (iv)).

You will not transfer this Agreement, any interest in you or your Owners, or the franchise or the Restaurant, to any person, partnership, corporation, limited liability company or entity that owns, operates, franchises, develops, consults with, manages, is involved in, or controls a Competitive Business. If Shakey's refuses to permit a transfer based upon this provision, your only remedy will be to seek a determination whether the proposed transfer is to a Competitive Business.

#### **D. DEATH OR DISABILITY OF FRANCHISEE.**

Upon death or permanent disability of you, your Operating Owner, or the Owner of a controlling interest in you, the executor, administrator or other personal representative of such person shall transfer (including without limitation, by bequest or inheritance) his or her interest in this Agreement or his or her interest in you to a third party approved by Shakey's. Such disposition of this Agreement or such interest in you shall be completed by the earliest reasonable time, not to exceed nine (9) months from the date of death or permanent disability, and shall be subject to all the terms and conditions applicable to transfers contained in Sections 13.B and 13.C. During this period, Shakey's has the right, at Shakey's option, to require the executor, administrator or other personal representative to employ, at his expense, a trained manager satisfactory to Shakey's to operate the Restaurant. Failure to transfer the interest in this Agreement or the interest in you within the nine (9) month period of time is a material breach of this Agreement. The term "permanent disability" means a mental or physical disability, impairment or condition that is reasonably expected to prevent or actually does prevent you or your Operating Owner or an Owner of a controlling interest in you from managing and/or supervising the Restaurant operations for a period of thirty (30) days or more from the onset of such disability, impairment or condition.

**E. FRANCHISOR'S RIGHT OF FIRST REFUSAL.**

If you or any of your Owners desire to transfer the franchise for legal consideration, you or such Owner shall obtain a bona fide, executed written offer from a responsible and fully disclosed purchaser and shall deliver immediately to Shakey's a complete and accurate copy of such offer.

Shakey's will have the option, exercisable by written notice delivered within thirty (30) days from the date you deliver a complete and accurate copy of such offer to Shakey's, to purchase such interest for the price and on the terms and conditions contained in such offer, provided that: (i) Shakey's credit shall be deemed equal to the credit of any proposed purchaser; (ii) Shakey's shall have not less than ninety (90) days from the option exercise date to close the transaction; and (iii) Shakey's may substitute cash for any non-cash consideration. Shakey's will have the right to investigate and analyze the business, assets and liabilities and all other matters Shakey's deems necessary or desirable in order to make an informed investment decision with respect to the fairness of the terms of the offer. Shakey's may conduct the investigation and analysis in any manner Shakey's reasonably deems appropriate, and you and your Owners must fully cooperate with Shakey's.

If Shakey's exercises its option to purchase, Shakey's will be entitled to purchase such interest subject to all representations and warranties, closing documents and indemnities as Shakey's reasonably requires, including representations and warranties as to the ownership and condition of capital stock or other ownership interests and/or assets, the validity and status of contracts and leases and the extent of liabilities, contingent or otherwise, of the business entity whose ownership interests are being purchased.

If Shakey's does not exercise Shakey's option to purchase, you or your Owners may complete the sale to the offeror pursuant to and on the exact terms of the offer, subject to Shakey's approval of the transfer as provided in Sections 13.B and 13.C. However, if the sale to the offeror is not completed within ninety (90) days after delivery of the offer to Shakey's, or if there is a material change in the terms of the offer, you will promptly notify Shakey's and Shakey's will have an additional option to purchase (on the terms of this Agreement) during the thirty (30) day period following your notification of the expiration of the ninety (90) day period or a change to the terms of the offer.

**F. PUBLIC AND PRIVATE OFFERINGS OF SECURITIES.**

Ownership interests in you or an Affiliate of yours (the "securities"), may be offered to the public, by private offering or otherwise, only with the prior written consent of Shakey's, which consent shall not be unreasonably withheld. All materials required for any offering of securities by federal or state law shall be submitted to Shakey's for review prior to their being filed with any government agency; and any materials to be used in any exempt offering shall be submitted to Shakey's for review prior to their use. No offering of securities shall imply (by use of any of the Marks or otherwise) that Shakey's is participating in the underwriting, issuance or offering of securities; and Shakey's review of any offering shall be limited solely to the subject of the relationship between you and Shakey's. You and the other participants in the offering must fully indemnify Shakey's in connection with the offering, and must, prior to the offering, execute all

documents requested by Shakey's to evidence this indemnification. For each proposed offering, you shall pay to Shakey's a non-refundable fee of Ten Thousand Dollars (\$10,000), or such greater amount as is necessary to reimburse Shakey's for its reasonable costs and expenses associated with reviewing the proposed offering, including, without limitation, legal and accounting fees. You shall give Shakey's written notice, together with a copy of all documentation pertaining to the proposed offering, at least thirty (30) days prior to the date of commencement of any offering covered by this Section.

**14. TERMINATION OF AGREEMENT.**

**A. IMMEDIATE TERMINATION WITHOUT OPPORTUNITY TO CURE.**

This Agreement will automatically terminate, effective upon delivery of notice of termination to you, if either you or any of your Owners: (i) fail to open the Restaurant and commence business in accordance with Section 3.C; (ii) are required to close the Restaurant as a result of any municipal, state or other agency directive; (iii) surrender or transfer control of the operation of the Restaurant without Shakey's prior written consent; (iv) have made any material misstatement of fact or omission of a material fact in your application for the franchise or in any other information you provide pursuant to this Agreement; (v) are adjudged bankrupt; become insolvent by reason of your inability to pay your debts as they mature; file a petition in bankruptcy, reorganization or similar proceeding under the bankruptcy laws of the United States, or have such a petition filed against you which is not discharged within thirty (30) days; a receiver or other custodian is appointed for the assets of the Restaurant, your business, assets or property; or you make a general assignment for the benefit of creditors; (vi) are the owner of property, business, accounts or other assets which are attached or which are the subject of a levy or execution; (vii) are the subject of a final judgment in the amount of Fifteen Thousand Dollars (\$15,000) or more and such judgment remains unsatisfied on record for thirty (30) days or longer; (viii) are or have been convicted of, or plead or have pled no contest to, a felony or other crime or offense, that Shakey's reasonably believes may adversely affect the goodwill associated with the Marks, or engage in any misconduct which affects the reputation of any Shakey's Restaurant, Shakey's or the Marks, including, but not limited to, misconduct which demonstrates a reckless disregard for the employees or customers of the Restaurant or agents or employees of Shakey's such as battery, assault, harassment or other unacceptable behavior; (ix) fail to transfer the franchise or the interest of a deceased or disabled principal Owner of you as herein required; (x) lose the right to possession of the Premises, whether or not through your fault; or (xi) make any unauthorized use of the Marks, any unauthorized use or disclosure of any Confidential Information, or use, duplicate or disclose any portion of the Manual or System in violation of this Agreement or otherwise engage in unfair competition in violation of Section 7.B.

**B. TERMINATION BY SHAKEY'S UPON NOTICE AND OPPORTUNITY TO CURE.**

In addition to Shakey's right to terminate pursuant to other provisions of this Agreement, Shakey's has the right to terminate this Agreement, effective upon delivery of notice to you, and expiration of any cure period set forth below, if you or any of your Owners:

- (i) fail to accurately report Gross Sales, to make payment of any amounts due

Shakey's or Shakey's Affiliates (including, without limitation, Royalty, Technology Fee or Advertising Fund contributions) or to submit to Shakey's any information or documentation required under this Agreement, including but not limited to, reports due under Section 11 hereof, and do not correct such failure within thirty (30) days (seven (7) days if the failure is payment of Royalty, Technology Fee or other fees or payments to Shakey's) after written notice is delivered to you;

(ii) fail to make a timely payment of any amount due a supplier affiliated with Shakey's (other than payments which are subject to a bona fide dispute), and do not correct such failure within thirty (30) days after Shakey's delivers written notice to you;

(iii) fail to comply with any sanitation or food safety standard established by Shakey's, and do not correct such failure within twenty-four (24) hours after Shakey's delivers written notice to you;

(iv) fail to utilize, in the operation of the Restaurant, such products or services mandated by Shakey's, or fail to purchase and offer for sale from the Restaurant in a timely manner, any product or service prescribed by Shakey's in accordance with Section 9.D, and do not correct such failure within ten (10) days after written notice is delivered to you;

(v) fail to maintain the Premises and the Restaurant in conformance with Shakey's standards and specifications in accordance with Sections 9.A, 9.B and 9.E and do not correct such failure within ten (10) days after written notice is delivered to you;

(vi) enter into a management or consulting agreement or arrangement relating, directly or indirectly, to the operation of the Restaurant without Shakey's prior written consent and fail to terminate such agreement or arrangement within ten (10) days after written notice is delivered to you;

(vii) fail to comply with any other provision of this Agreement or any other mandatory specification, standard or operating or quality control procedure (including serve safe programs) prescribed by Shakey's, and do not correct such failure within thirty (30) days after Shakey's delivers written notice to you;

(viii) fail on three (3) or more separate occasions within any period of twelve (12) consecutive months to submit when due reports, information or supporting records, to pay when due any amounts due to Shakey's, Shakey's Affiliates or unaffiliated suppliers, or otherwise fail to comply with this Agreement, whether or not such failures to comply are corrected after notice is delivered to you;

(ix) abandon, surrender or transfer control of the operation of the Restaurant without Shakey's prior approval, or, in the event of a transfer, fail to furnish to Shakey's within thirty (30) days evidence of compliance with all transfer conditions set forth in Section 13.C hereof;

(x) fail to maintain required insurance coverage in accordance with Section 9.H hereof within fifteen (15) days of written notice from Shakey's;

(xi) allow or cause any other franchise agreement, any area developer agreement or any other agreement in effect between Shakey's or any of its Affiliates and you or any of your Affiliates, to be terminated, this Agreement shall also terminate; or

(xii) fail to comply with any obligation, provision, responsibility, term or duty imposed on you under this Agreement and not otherwise specifically set forth.

**C. TERMINATION, GENERALLY.**

Upon the occurrence of any event of default specified above, Shakey's may at its option and without waiving its rights under this Agreement or any other rights available at law or in equity, including its rights to damages, terminate this Agreement and all of your rights hereunder, immediately upon the date Shakey's gives written notice of termination, upon such other date as may be set forth in such notice of termination, or if so specified, automatically upon the occurrence of, on the lapse of the period specified following an event of default.

**15. GRANT OF A SUCCESSOR FRANCHISE AGREEMENT.**

**A. FRANCHISEE'S RIGHT TO ACQUIRE A SUCCESSOR FRANCHISE.**

Upon expiration of the Term, if: (i) you or your Owners and/or Affiliates are in compliance with this Agreement and any other agreements with Shakey's or any of its Affiliates, and you or your Owners and/or Affiliates have been in substantial compliance with this Agreement throughout the Term; and (ii) you maintain the right to possession of the Premises for the term of a successor franchise agreement and enter into an agreement with Shakey's whereby you agree within a specified time period after execution of a successor franchise agreement to remodel and upgrade the Restaurant to the specifications and standards then applicable for new Shakey's Restaurants; then, subject to the conditions contained in this Section 15, you will have the right to acquire one (1) successor franchise for a term of ten (10) years for the Restaurant on the terms and conditions of Shakey's then current form of franchise agreement for Shakey's Restaurants. You will be required to pay a fee equal to fifty percent (50%) of the initial franchise fee required under the then current franchise agreement for the successor franchise.

**B. NOTIFICATIONS.**

You must give Shakey's notice of your desire to acquire a successor franchise at least one hundred and eighty (180) days, but no more than two hundred seventy (270) days, prior to the expiration of this Agreement.

Shakey's agrees to give you written notice, not later than sixty (60) days after receipt of your notice, of whether you may acquire a successor franchise pursuant to Section 15.A. However, even if Shakey's notifies you that you have a right to acquire a successor franchise for the Restaurant, your right is subject to your continued compliance with the terms of this Agreement up to the date of expiration, and Shakey's reserves the right, at any time up to the date of expiration, to revoke such notice.

In the event that prior to the date of expiration of this Agreement all provisions of this Section 15 have not been complied with by you, Shakey's may, in its sole discretion, permit you

to continue operating the Restaurant under the terms and conditions of this Agreement until you comply with all obligations under this Section 15 or Shakey's terminates this Agreement.

**C. AGREEMENTS/RELEASES.**

If you have the right to acquire a successor franchise in accordance with Section 15.A and exercise that right in accordance with Section 15.B: (i) the Parties will execute the form of franchise agreement (which may contain terms, including royalty fees and technology fees, materially different from those contained herein) and all ancillary agreements (including Owners' personal guarantees and a remodeling agreement on such terms as Shakey's may determine to be appropriate) that Shakey's then customarily uses in granting successor franchises; and (ii) you and your Owners must execute general releases, in form and substance satisfactory to Shakey's, of any and all claims against Shakey's and Shakey's Affiliates and their respective officers, directors, managers, employees, agents, attorneys, accountants, successors and assigns. Failure by you to sign such agreements and releases within thirty (30) days after Shakey's delivers them to you will be deemed an election by you not to acquire a successor franchise.

**16. RIGHTS AND OBLIGATIONS UPON TERMINATION OR EXPIRATION.**

**A. PAYMENT OF AMOUNTS OWED TO FRANCHISOR.**

You must pay Shakey's and Shakey's Affiliates within ten (10) days after the effective date of termination or expiration (without obtaining a successor franchise) of this Agreement, all amounts owed to Shakey's or Shakey's Affiliates which are then unpaid, including, without limitation, all Royalties, Technology Fee and Advertising Fund contributions.

**B. DISCONTINUE USE OF MARKS AND CONFIDENTIAL INFORMATION.**

Upon the termination or expiration (without obtaining a successor franchise) of this Agreement:

(i) You may not directly or indirectly at any time or in any manner whatsoever identify yourself or any business as a current or former Shakey's franchisee or use any Mark, any colorable imitation thereof or other indication of a Shakey's Restaurant in any manner or for any purpose, as such unauthorized use provides Shakey's with the right to seek appropriate remedies under the counterfeiting provisions of the Federal Trademark Act (the Lanham Act);

(ii) You must take such action as may be required to cancel all fictitious or assumed name or equivalent registrations relating to your use of any Mark;

(iii) You must notify the telephone company and all telephone directory publishers of the termination or expiration of your right to use any telephone number and any regular, classified or other telephone directory listings associated with any Mark;

(iv) You must promptly remove from the Premises, and discontinue using for any purpose, all interior and exterior signs, including pole signage, banners, table tents, fixtures, furniture, decor items, advertising materials, forms and other materials and supplies which display any of the Marks or any distinctive features, images, or designs associated with Shakey's

Restaurants and, at your expense, make alterations necessary to clearly distinguish the Premises from its former appearance as a Shakey's Restaurant and from other Shakey's Restaurants to prevent any possibility of confusion by the public;

(v) You must immediately cease to use any Confidential Information disclosed under this Agreement in any business or otherwise and return to Shakey's all copies of the Manual and any other confidential materials which have been loaned by Shakey's to you; and

(vi) You must furnish to Shakey's within ten (10) days, satisfactory evidence of your compliance with the foregoing obligations. If you fail to comply with your obligations under subparagraph (iv) above in a prompt fashion, Shakey's shall have the right, but not the obligation, to remove or cause to be removed from the Premises of the Restaurant any and all signs, fixtures, furniture, decor items, advertising materials, forms, and other materials and supplies which display any of the Marks or any of the distinctive features, images or designs associated with Shakey's Restaurants, at your sole expense and without being liable for trespass or damage.

#### **C. COVENANT NOT TO COMPETE.**

You and each of your Owners (pursuant to Exhibit "C-2"), agree that upon termination or expiration (without obtaining a successor franchise) of this Agreement, for a period of three (3) years, starting on the effective date of the termination, you and your Owners will not directly or indirectly (including, without limitation, through your or their Immediate Families) own any legal or beneficial interest in, or render services or give advice to: (i) any Competitive Business located in the Protected Area, as defined in Exhibit A; (ii) any Competitive Business located within a three (3) mile radius of any other Shakey's Restaurant then operating or under construction; or (iii) any entity granting franchises, licenses or other interests to others to operate any Competitive Business. The above restrictions do not apply to (a) owning or operating other Shakey's Restaurants under franchise agreements with Shakey's; or (b) owning securities listed on an exchange or traded on the over-the-counter market and that represent less than five percent (5%) of that class of securities;

You and each of your Owners expressly acknowledge that you possess skills and abilities of a general nature and have other opportunities for exploiting such skills, so that enforcement of the covenants in this Section 16.C will not deprive you of your personal goodwill or ability to earn a living. If you or any of your Owners fails or refuses to abide by any of the foregoing covenants, and Shakey's obtains enforcement in a judicial or arbitration proceeding, the applicable covenant shall be in effect and continue for a period of time expiring three (3) years after the date you or such other person commences compliance with the order enforcing the applicable covenant.

#### **D. PAYMENT OF AMOUNT OWED TO FRANCHISOR UPON TERMINATION.**

YOU UNDERSTAND AND ACKNOWLEDGE THAT A VIOLATION OR TERMINATION OF THIS AGREEMENT WOULD RESULT IN SUBSTANTIAL HARM TO SHAKEY'S, ITS BUSINESS AND THE IMAGE AND GOODWILL ASSOCIATED THEREWITH, AS WELL AS SUBSTANTIAL EXPENSE TO SHAKEY'S. THEREFORE, IN THE EVENT OF A BREACH OF AND PREMATURE TERMINATION OF THIS AGREEMENT, YOU MUST PROMPTLY PAY TO SHAKEY'S (AS LIQUIDATED

DAMAGES FOR THE PREMATURE TERMINATION ONLY, AND NOT AS A PENALTY OR AS DAMAGES FOR BREACHING THE AGREEMENT OR IN LIEU OF ANY OTHER PAYMENT) A LUMP SUM EQUAL TO THE TOTAL AMOUNTS REQUIRED UNDER SECTION 6.B (ROYALTY FEES) FOR SUCH PERIOD AS EQUALS THE UNEXPIRED FRANCHISE TERM AT THE TIME OF TERMINATION CALCULATED AS FOLLOWS: YOU SHALL PAY SHAKEY'S AN AMOUNT EQUAL TO THE AVERAGE OF THE PRECEDING ONE HUNDRED AND FOUR (104) WEEKS ROYALTIES DUE AND PAYABLE PURSUANT TO SECTION 6.B MULTIPLIED BY THE NUMBER OF WEEKS (PRO RATED FOR PARTIAL WEEKS) LEFT IN THE TERM OR IF THE AGREEMENT HAS NOT BEEN IN EFFECT FOR ONE HUNDRED FOUR (104) WEEKS, SUCH AVERAGE FOR AS MANY WEEKS AS THIS AGREEMENT HAS BEEN IN EFFECT BEFORE TERMINATION. YOU SHALL PAY ALL COSTS, EXPENSES AND ATTORNEYS' FEES INCURRED BY SHAKEY'S IN ENFORCING THE TERMS AND CONDITIONS OF THIS PROVISION. NOTHING CONTAINED HEREIN SHALL BE CONSTRUED AS PROHIBITING SHAKEY'S FROM ADDITIONALLY PURSUING ANY OTHER REMEDIES WHICH MAY BE AVAILABLE TO IT FOR SUCH BREACH, INCLUDING RECOVERY OF ACTUAL DAMAGES.

**E. CONTINUING OBLIGATIONS.**

All obligations of the Parties under this Agreement which expressly or by their nature survive the expiration or termination of this Agreement shall continue in full force subsequent to the expiration or termination of this Agreement until they are fully satisfied or by their nature expire.

**17. RELATIONSHIP OF THE PARTIES.**

**A. INDEPENDENT CONTRACTORS.**

Neither this Agreement nor the dealings of the Parties pursuant to this Agreement creates any fiduciary relationship or any other relationship of trust or confidence. The Parties, as between themselves, are independent contractors.

Nothing contained in this Agreement, or arising from the conduct of the Parties hereunder, is intended to make either party a general or special agent, joint venturer, partner or employee of the other for any purpose whatsoever. You must conspicuously identify yourself in all dealings with customers, lessors, contractors, suppliers, public officials, employees and others as the Owner of the Restaurant and place such notices of independent ownership on forms, business cards, stationery, advertising and other materials as Shakey's may require from time to time.

You may make no express or implied agreements, warranties, guarantees or representations or incur any debt in Shakey's name or on Shakey's behalf or represent that the relationship of the Parties is anything other than that of independent contractors. Shakey's will not be obligated by or have any liability under any agreements made by you with any third party or for any representations you make to any third party. Shakey's will not be obligated for any damages to any person or property directly or indirectly arising out of the operation of the Restaurant.

**B. INDEMNIFICATION.**

You agree to indemnify, defend and hold harmless Shakey's, its Affiliates and their respective shareholders, members, directors, officers, managers, employees, agents, attorneys, accountants, successors and assigns against and reimburse them for, any claim, liability, obligation, actual and consequential damages or taxes asserted against or imposed on any of the above indemnified parties contrary to the provisions of this Section and any claim or liability directly or indirectly arising from your development or operation of the Restaurant. Shakey's has the right to defend and/or settle any such matter in the manner Shakey's deems appropriate, in Shakey's sole discretion, and without your consent. You agree to reimburse each of the above indemnified parties for all costs reasonably incurred in defending any such matter, including, without limitation, reasonable attorneys' fees. This Section shall continue in full force and effect subsequent to the expiration or termination of this Agreement.

**C. TAXES.**

Shakey's will have no liability for any sales, use, service, occupation, excise, gross receipts, income, property or other taxes, whether levied upon the Restaurant, your property, or upon Shakey's, in connection with the sales or business you conduct, including any taxes Shakey's is required by law to collect from you in connection with this Agreement. Payment of these taxes is your responsibility. In the event of a bona fide dispute of your tax or other liability, you may contest the validity of the amount of tax or indebtedness in accordance with procedures of the taxing authority or applicable law. In no event, however, will you permit a tax sale, seizure or attachment against the Restaurant or any of its assets.

**18. DISPUTE RESOLUTION.**

**A. NEGOTIATION.**

Prior to either Party instituting litigation with respect to a dispute, the Parties agree to attempt in good faith to resolve any controversy or claim arising out of or relating to this Agreement promptly by negotiation.

The disputing party must give the other party written notice of the dispute. Within twenty (20) days after receipt of this notice, the receiving party must submit to the other a written response. The notice and response must include a statement of each party's position. The Parties will meet at a mutually acceptable time at Shakey's headquarters within thirty (30) days of the date of the notice of dispute to attempt to resolve the dispute. You or your Operating Owner will represent you in the negotiations and Shakey's will be represented by an executive or agent authorized to settle the controversy.

**B. FEES AND EXPENSES.**

Should any Party hereto commence any action or proceeding for the purpose of enforcing, or preventing the breach of, any provision hereof, or for damages for any alleged breach of any provision hereof, or for a declaration of such Party's rights or obligations hereunder, then the prevailing party shall be reimbursed by the losing party for all costs and expenses incurred in

connection therewith, including, but not limited to, reasonable attorney's fees at all trial and appellate levels for the services rendered to such prevailing party.

**C. GOVERNING LAW.**

Except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. Section 1051 et seq.), or other Federal law, this Agreement, the franchise and the relationship between you and Shakey's shall be governed by and construed in accordance with the laws of the state of California; however, if this Agreement concerns a Restaurant located in another state and the laws of that state require terms other than those or in addition to those contained herein, then this Agreement shall be deemed modified so as to comply with the appropriate laws of such state, but only to the extent necessary to prevent the invalidity of this Agreement or any provision hereof, the imposition of fines or penalties, or the creation of civil or criminal liability on account thereof. Any provision of this Agreement which may be determined by competent authority to be prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of the prohibition or unenforceability without invalidating the remaining provisions of this Agreement. Any prohibition against the enforcement of any provision of this Agreement or the unenforceability of any provision of this Agreement in any jurisdiction, including the state whose law governs this Agreement, shall not invalidate the provision or render it unenforceable in any other jurisdiction. To the extent permitted by applicable law, you waive any provision of law which renders any provision of this Agreement prohibited or unenforceable in any respect. Notwithstanding the foregoing, the restrictive covenants contained in Section 16 shall be construed in accordance with the laws of the state(s) where such restriction(s) is/are, to apply and the laws of such state(s) shall determine the enforceability of such covenants to be performed in such state(s).

**D. INJUNCTIVE RELIEF.**

Each party shall have the right to seek from an appropriate court provisional expedited remedies, including, but not limited to, temporary restraining orders or preliminary injunctions.

You recognize that your failure to comply with the terms of this Agreement is likely to cause irreparable harm to Shakey's and the System. Therefore, you agree that notwithstanding provisions regarding negotiation, in the event of a breach or threatened breach of any of the terms of this Agreement by you, Shakey's shall be entitled to injunctive relief (both preliminary and permanent) restraining that breach and/or for specific performance, without showing or proving actual damages and without posting any bond or security. Any equitable remedies sought by Shakey's shall be in addition to, and not in lieu of, all remedies and rights which Shakey's otherwise may have arising under applicable law or by virtue of any breach of this Agreement.

**E. LIMITATION OF CLAIMS.**

Except for payments owed by one party to the other, and unless prohibited by applicable law, any legal action or proceeding brought or instituted with respect to any dispute arising from or related to this Agreement or with respect to any breach of the terms of this Agreement must be brought or instituted within a period of two (2) years from the date of discovery of the conduct or event that is the basis of the legal action or proceeding.

**F. LIMITATIONS ON DAMAGES.**

EXCEPT WITH RESPECT TO OBLIGATIONS REGARDING USE OF THE MARKS AS SET FORTH IN SECTION 4 AND THE CONFIDENTIAL INFORMATION SET FORTH IN SECTION 7.A, EACH PARTY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO OR CLAIM FOR ANY PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER. IN NO EVENT SHALL THE LIABILITY OF SHAKEY'S OR ITS AFFILIATES FOR ANY REASON AND UPON ANY CAUSE OF ACTION WHATSOEVER BE GREATER THAN THE AMOUNT(S) THEN PREVIOUSLY PAID BY YOU TO SHAKEY'S OR ITS AFFILIATE. SHAKEY'S OR ITS AFFILIATE SHALL HAVE NO LIABILITY FOR ANY DIRECT, CONSEQUENTIAL, SPECIAL, OR INCIDENTAL DAMAGE, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR OTHER ECONOMIC LOSS (WHETHER ARISING FROM BREACH OF CONTRACT, TORT OR OTHERWISE) EVEN IF SHAKEY'S OR ITS AFFILIATE HAS BEEN APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING. CLAIMS MUST BE MADE BY INITIATING THE NEGOTIATION PROCESS SET FORTH IN SECTION 18.A. THE PARTIES WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW THE RIGHT TO BRING, OR BE A CLASS MEMBER IN ANY CLASS ACTION, OR SUITS AND THE RIGHT TO TRIAL BY JURY.

**G. VENUE.**

Any and all litigation between you and Shakey's or any Affiliates of either shall be brought in a court of competent subject matter jurisdiction (state or federal) within the county or district in which Shakey's then maintains its principal offices, and you agree that such courts shall have exclusive jurisdiction and venue over such litigation. Shakey's may, however, elect to institute litigation in the county or district where the Restaurant is located or where you then maintain your principal offices.

**H. CONTROL DURING CRISIS SITUATION.**

If an event occurs at the Restaurant that has or reasonably may cause harm or injury to customers or employees (i.e., food spoilage/poisoning, food tampering/sabotage, slip and fall injuries, natural disasters, robberies, shootings, etc.) or may damage the Marks, the System or the reputation of Shakey's (collectively "Crisis Situation"), you shall: (i) immediately contact appropriate emergency care providers to assist you in curing the harm or injury; and (ii) immediately inform Shakey's by telephone of the Crisis Situation. You shall refrain from making any internal or external announcements (i.e., no communication with the news media) regarding the Crisis Situation (unless otherwise directed by Shakey's or public health officials).

To the extent Shakey's deems appropriate, in its sole and absolute discretion, Shakey's may control the manner in which the Crisis Situation is handled by the Parties, including, without limitation, conducting all communication with the news media, providing care for injured persons and/or temporarily closing the Restaurant. The Parties acknowledge that, in directing the management of any Crisis Situation, Shakey's may engage the services of attorneys, experts, doctors, testing laboratories, public relations firms and those other professionals as it deems appropriate. You and your employees shall cooperate fully with Shakey's in its efforts and activities in this regard and shall be bound by all further Crisis Situation procedures developed by

Shakey's from time to time hereafter. The indemnification under Section 17.B shall include all losses and expenses that may result from Shakey's exercise of its management rights granted in this Section 18.H.

**19. MISCELLANEOUS.**

**A. SEVERABILITY/SUBSTITUTION OF VALID PROVISIONS.**

Every part of this Agreement is severable. If for any reason any part of this Agreement is held to be invalid, that determination shall not impair other parts of this Agreement that remain otherwise intelligible. If any covenant in this Agreement restricting competitive activity is deemed unenforceable by virtue of its scope in terms of geographical area, type of business activity prohibited and/or length of time, but could be enforceable by reducing any part or all thereof, then that covenant shall be enforced to the fullest extent permissible under applicable laws and public policies.

If any applicable law or rule of any jurisdiction requires either a greater prior notice of termination of, or refusal to enter into a successor franchise, or the taking of some other action not required under this Agreement, the prior notice and/or other action required by such law or rule shall be substituted for the comparable provisions of this Agreement. If any provision of this Agreement or any specification, standard or operating procedure Shakey's prescribes is invalid or unenforceable under applicable law, Shakey's shall have the right, in its sole discretion, to modify the invalid or unenforceable provision, specification, standard or operating procedure to the extent required to be valid and enforceable.

**B. WAIVER OF OBLIGATIONS.**

Either party may by written instrument unilaterally waive or reduce any obligation of the other under this Agreement. Any waiver Shakey's grants will not prejudice any other rights Shakey's has, will be subject to Shakey's continuing review and may be revoked, in Shakey's sole discretion, at any time and for any reason, effective upon delivery of ten (10) days' prior written notice. Neither party shall be deemed to have waived any right, power or option reserved by this Agreement: (i) by virtue of any custom or practice of the Parties at variance with the terms of this Agreement; (ii) by any failure, refusal or neglect of either party to exercise any right under this Agreement or by Shakey's to insist upon exact compliance by you with your obligations under this Agreement; (iii) by any waiver, forbearance, delay, failure or omission by Shakey's to exercise any right, power or option, whether of the same, similar or different nature, regarding other Shakey's Restaurants; or (iv) by Shakey's acceptance of any payments due from you after any breach of this Agreement.

**C. EXERCISE OF RIGHTS OF PARTIES.**

The Parties' rights under this Agreement are cumulative. No exercise or enforcement by the Parties of any right or remedy under this Agreement shall preclude the exercise or enforcement by either Party of any right or remedy under this Agreement, which either Party is entitled to enforce by law.

**D. BINDING EFFECT.**

This Agreement is binding upon the Parties and their respective executors, administrators, heirs, assigns and successors in interest and shall not be modified except by written agreement signed by both Parties.

**E. CONSTRUCTION.**

The preambles, acknowledgments, personal guarantees and exhibits to this Agreement, as well as the Manual, are a part of this Agreement, which constitutes the entire agreement of the Parties. There are no other oral or written agreements, understandings, representations or statements between the Parties relating to the subject matter of this Agreement, other than Shakey's Disclosure Document, that either party may or does rely upon or that will have any force or effect. Nothing in this Agreement is intended or shall be deemed to confer any rights or remedies upon any person or legal entity not a party to this Agreement.

Except where this Agreement expressly obligates Shakey's to reasonably approve or consent (or not to unreasonably withhold Shakey's approval or consent) to any action or request by you, Shakey's has the absolute right for any reason to refuse any request by you or to withhold Shakey's approval of or consent to any action by you.

The headings of this Agreement's sections and subsections are for convenience only and do not limit or construe their contents. The terms "you" and "your" are applicable to one or more persons, a corporation or a partnership or a limited liability company and its owners, as the case may be. If two or more persons are at any time the franchisee, whether or not as partners or joint venturers or otherwise, their obligations and liabilities to Shakey's shall be joint and several. References to an interest in an entity shall mean any share or percentage whatsoever of the equity or voting control of such entity. The term "attorneys' fees" shall include, without limitation, reasonable legal fees, whether incurred prior to, in preparation for or in contemplation of the filing of any written demand or claim, action, hearing or proceeding to enforce the obligations of this Agreement, at all trial and appellate levels.

This Agreement shall be executed in multiple copies, each of which shall be deemed an original and all of which together shall be deemed to be one and the same instrument. Time is of the essence in this Agreement.

The Parties have negotiated the terms of this Agreement and both Parties agree that neither party shall claim the existence of any implied covenant of good faith and fair dealing in contravention of, or as a limitation of any term of this Agreement.

**F. NOTICES AND PAYMENTS.**

All notices, requests and reports permitted or required to be delivered by this Agreement shall be deemed delivered (even if delivery is refused): (i) at the time delivered by hand to the recipient party (or to an officer, director, manager or partner of the recipient party); (ii) on the same date of the transmission by facsimile, telegraph or other reasonably reliable electronic communication system; (iii) one (1) business day after being placed in the hands of a commercial courier service for guaranteed overnight delivery; or (iv) four (4) business days after placement in

the United States Mail by Registered or Certified Mail, Return Receipt Requested, postage prepaid and addressed to the party to be notified at its most current principal business address of which the notifying party has been notified in writing. All payments and reports required by this Agreement shall be sent to Shakey's at the address identified in this Agreement unless and until a different address has been designated by appropriate written notice to the other party or unless otherwise expressly provided herein.

**G. ENTIRE AGREEMENT**

This Agreement, its exhibits, the Manual, including the mandatory standards, specifications and operating procedures, contained in the Manual, and the documents referred to herein shall be construed together and constitute the entire, full and complete agreement between Shakey's and you concerning the subject matter hereof and shall supersede all prior agreements. No other representation, oral or otherwise, has induced you to execute this Agreement, and there are no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein, which are of any force or effect with respect to the matters set forth in or contemplated by this Agreement or otherwise. Nothing in this or any related agreement is intended to disclaim the representations in the franchise Disclosure Document delivered to you by Shakey's. No amendment, change or variance from this Agreement shall be binding on either party unless executed in writing by both parties. Notwithstanding the foregoing sentence, Shakey's may periodically modify the contents of the Manual, including mandatory standards, specifications and operating procedures.

In Witness Whereof, the Parties have executed this Agreement on the day and year indicated on page one.

**SHAKEY'S USA, INC. ,  
a Delaware corporation**

**FRANCHISEE**

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

If a corporation, partnership, limited liability company or other business entity:

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

\_\_\_\_\_

(Name of Entity)

Title: \_\_\_\_\_

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

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

Title: \_\_\_\_\_

If Individuals:

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(Signature)

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(Print Name)

**EXHIBIT A  
TO THE FRANCHISE AGREEMENT BETWEEN  
SHAKEY'S USA, INC. AND**

\_\_\_\_\_  
**DATED \_\_\_\_\_, \_\_\_\_\_  
PREMISES, PROTECTED AREA  
AND DELIVERY AREA:**

The "Premises" shall be: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The "Protected Area" shall be: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The "Delivery Area" shall be \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SHAKEY'S USA, INC.,  
a Delaware corporation**

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

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

Title: \_\_\_\_\_

**FRANCHISEE**

If a corporation, partnership, limited liability  
company or other business entity:

\_\_\_\_\_  
(Name of Entity)

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

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

Title: \_\_\_\_\_

If Individuals:

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(Signature)

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(Print Name)

---

(Signature)

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(Print Name)

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(Signature)

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(Print Name)

**EXHIBIT B  
TO THE FRANCHISE AGREEMENT BETWEEN  
SHAKEY'S USA, INC. AND**

\_\_\_\_\_  
**DATED** \_\_\_\_\_, \_\_\_\_\_

1. Operating Owner. The name and home address of the Operating Owner is as follows:

\_\_\_\_\_  
\_\_\_\_\_

2. Form of Entity of Franchisee:

(a) Corporation. Franchisee was incorporated on \_\_\_\_\_, \_\_\_\_\_, under the laws of the State of \_\_\_\_\_. It has not conducted business under any name other than its corporate name. The following lists all of Franchisee's directors and officers as of \_\_\_\_\_, \_\_\_\_\_.

Name of Each Director/Officer/Manager

Position(s) Held

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

(b) Partnership. Franchisee is a general partnership formed on \_\_\_\_\_, \_\_\_\_\_ under the laws of the State of \_\_\_\_\_. It has not conducted business under any name other than its partnership name. The following lists all of Franchisee's general partners as of \_\_\_\_\_, \_\_\_\_\_.

Name of General Partner

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(c) Limited Liability Company. Franchisee is a limited liability company formed on \_\_\_\_\_, under the laws of the state of \_\_\_\_\_. It has not conducted business under any other name than its entity name. The following lists all of the Franchisee's members as of \_\_\_\_\_, \_\_\_\_\_.

Name of Member

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3. Owners. Franchisee and each of its Owners represents and warrants that the following is a complete and accurate list of all Owners of Franchisee, including the full name and mailing address of each Owner, and fully describes the nature and extent of each Owner's interest in Franchisee. Franchisee, and each Owner as to his ownership interest, represents and warrants that each Owner is the sole and exclusive legal record and beneficial owner of his ownership interest, free and clear of all liens, restrictions, agreements and encumbrances of any kind or nature, other than those required or permitted by this Agreement.

Owner's Name and Address

Description of Interest

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

Submitted by Franchisee on \_\_\_\_\_, \_\_\_\_\_

Accepted by Shakey's and made a part of the Franchise Agreement as of \_\_\_\_\_, \_\_\_\_\_

**SHAKEY'S USA, INC.,**  
**a Delaware corporation**

\_\_\_\_\_  
 (Name of Corporation or Partnership)

By: \_\_\_\_\_  
 Print Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Owners:

By: \_\_\_\_\_  
 Print Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

\_\_\_\_\_  
 (Signature)

\_\_\_\_\_  
 (Print Name)

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(Signature)

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(Print Name)

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(Signature)

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(Print Name)

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(Signature)

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(Print Name)

**EXHIBIT C-1**  
**CONTINUING PERSONAL GUARANTY**

In consideration of, and as an inducement to, the execution of the Shakey's USA, Inc. Franchise Agreement dated as of \_\_\_\_\_, \_\_\_\_\_ (the "Franchise Agreement") by and between Shakey's USA, Inc., a Delaware corporation ("Franchisor") and \_\_\_\_\_ ("Franchisee"), each of the undersigned owners of an interest in Franchisee ("Guarantors") hereby personally and unconditionally agree as follows:

1. The Guarantors unconditionally endorse, guarantee and promise, to and for the benefit of Franchisor, that they shall promptly, fully and faithfully perform, observe, and discharge all of the obligations arising from or in connection with the Franchise Agreement and that Guarantors will be bound by all of the terms of the Franchise Agreement. Guarantors' obligations are joint and several. Guarantors acknowledge receipt and review of the Franchise Agreement.

2. Guarantors each waive the benefit of any statute of limitations affecting Guarantors' liability under this Guaranty.

3. The Guaranty is a continuing Guaranty of the obligations set forth in the Franchise Agreement including any and all such obligations which are renewed, extended, modified or restructured from time to time. The provisions of the Franchise Agreement may be changed by agreement between Franchisor and Franchisee at any time, or by course of conduct, without the consent of and without notice to Guarantors. This Guaranty shall guarantee the performance of the Franchise Agreement. Sale or transfer of the franchise and/or the Franchise Agreement (as permitted by the Franchise Agreement) shall not affect this Guaranty.

4. This Guaranty shall not be affected by Franchisor's failure or delay to enforce any of its rights.

5. Guarantors agree that they are each directly and primarily liable to Franchisor and that their obligations hereunder are independent of the obligations under the Franchise Agreement. If Franchisee defaults under the Franchise Agreement, Franchisor can proceed immediately against Guarantors or Franchisee, or both, or Franchisor can enforce against Guarantor or Franchisee, or both, any rights that it has under the Franchise Agreement, or pursuant to applicable laws. If the Franchise Agreement terminates and Franchisor has any rights it can enforce against Franchisee after termination, Franchisor can enforce those rights against Guarantors without giving previous notice to Franchisee or Guarantors, or without making any demand on either of them.

6. Guarantors each waive the right to require Franchisor to: (a) proceed against any person, including Franchisee or any other guarantor; (b) proceed against or exhaust any security that Franchisor holds from any person, including Franchisee or any other guarantor; (c) give notice of the terms, time and place of any public or private sale of personal property security held from the Franchisee or any other person, or otherwise comply with the provisions of Section 9-504 of the Uniform Commercial Code; or (d) pursue any other remedy in Franchisor's power. Guarantors each waive any defense based upon or arising by reason of:

(a) any disability or any other defense of Franchisee or any other person; (b) the cessation or limitation from any cause whatsoever, other than payment in full, of the indebtedness or obligations of Franchisee or any other person; (c) any lack of authority of any officer, director, partner, manager, agent or any other person acting or purporting to act on behalf of Franchisee which is a corporation, partnership or other type of entity, or any defect in the formation of such Franchisee; (d) the application by Franchisee of the proceeds of any indebtedness or obligations for purposes other than the purposes represented by Franchisee to Franchisor or intended or understood by Franchisor or Guarantors; (e) any act or omission by Franchisor which directly or indirectly results in or aids in the discharge of Franchisee or any indebtedness or obligations thereof by operation of law or otherwise; (f) any modification of the indebtedness or the obligations of Franchisee, in any form whatsoever, including without limitation the renewal, extension, acceleration or other change in time for payment of such indebtedness or obligations, or other change in the terms of such indebtedness or obligations or any part thereof, including increase or decrease of the rate of interest thereon. Until all of Franchisee's obligations to Franchisor have been discharged in full, Guarantors have no right to subrogation against Franchisee, and Guarantors each waive any defense Guarantor may have based upon any election of remedies of Franchisor which destroys Guarantors' subrogation rights or Guarantors' rights to proceed against Franchisee for reimbursement, including without limitation any loss of rights Guarantors may suffer by reason of any rights, powers or remedies of Franchisee in connection with any anti-deficiency laws or any other laws limiting, qualifying or discharging Franchisee's obligations. Until all of Franchisee's obligations to Franchisor shall have been paid in full, Guarantors each further waive any right to enforce any remedy which Franchisor now has or may hereafter have against Franchisee or any other person, and waive any benefit, or any right to participate in any security whatsoever now or hereafter held by Franchisor. Guarantors each waive any defense based on a destruction of their rights of subrogation by Franchisor and consent to any action by Franchisor which destroys their rights of subrogation. Guarantors each waive their right to enforce any remedies that Franchisor now has, or later may have, against Franchisee. Guarantors waive any right to participate in any security now or later held by Franchisor. Guarantors each waive all presentments, demands for performance, notices of non-performance, protests, notices of protest, notice of dishonor, and notices of acceptance of this Guaranty, and waive all notices of the existence, creation, or incurring of new or additional obligations. Guarantors each warrant and agree that each of the waivers set forth above are made by Guarantors with full knowledge of their significance and consequences, and under the circumstances, the waivers are reasonable and not contrary to public policy or law. If any of said waivers are determined to be contrary to any applicable law or public policy, such waivers shall be effective only to the extent permitted by law.

7. Guarantors each represent and warrant to Franchisor that:

(a) Guarantors have not and shall not, without the prior written consent of Franchisor, sell, lease, assign, encumber, hypothecate, transfer or otherwise dispose of all or a substantial part of their respective assets other than in the ordinary course of business; and

(b) Guarantors have established adequate means of obtaining from Franchisee on a continuing basis financial and other information pertaining to Franchisee's financial condition. Guarantors agree to keep adequately informed from such means of any facts, events

or circumstances which might in any way affect Guarantors' risks hereunder, and Guarantors further agree that Franchisor shall have no obligation to disclose to Guarantors any information or material about Franchisee which is acquired by Franchisor in any manner.

8. Guarantors each acknowledge that Franchisor has the right to sell, assign, transfer, negotiate or grant participation in all or any part of, or any interest in, any of Franchisee's obligations to Franchisor and any obligations with respect thereto, including this Guaranty. In connection therewith, Franchisor may disclose all documents and information which Franchisor now has or hereafter acquires relating to Guarantors and this Guaranty, whether furnished by Franchisee, Guarantors or otherwise. Guarantors further agree that Franchisor may disclose such documents and information to Franchisee.

9. If Franchisor disposes of its interest in the Franchise Agreement, "Shakey's" as used in this Guaranty, shall mean Franchisor's successors and assigns.

10. If Franchisor is required to enforce Guarantors' obligations by legal proceedings, the prevailing party shall be entitled to receive from the other all costs incurred, including, without limitation, reasonable attorneys' fees, at all trial and appellate levels. This Guaranty shall be governed by and construed in accordance with the laws of the state of California. All litigation under this Guaranty shall be brought in a court of competent jurisdiction within the county or district where Franchisor then maintains its principal offices. Franchisor may however, elect to institute litigation in the county or district where the Restaurant (as defined in the Franchise Agreement) is located or where any of the undersigned reside.

11. Guarantors may not voluntarily assign their obligations hereunder without the prior written consent of Franchisor. If Guarantors assign their obligations as permitted hereunder, Guarantors' obligations under this Guaranty shall be binding on Guarantors' successors and assigns.

Whenever the context hereof shall so require, the singular shall include the plural, the male gender shall include the female gender and the neuter, and visa versa.

**[SIGNATURES ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, the undersigned have executed this Continuing Personal Guaranty as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

PERCENTAGE OF OWNERSHIP  
INTERESTS IN FRANCHISEE

GUARANTOR(S)

\_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

**EXHIBIT C-2**  
**CONFIDENTIALITY AGREEMENT AND COVENANTS NOT TO COMPETE**

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between Shakey's USA, Inc., a Delaware corporation ("Franchisor"), \_\_\_\_\_ ("Franchisee"), and \_\_\_\_\_ ("Covenantor").

RECITALS

WHEREAS, Franchisor licenses the use of a distinctive system (the "System") for the development and operation of restaurants featuring pizza, chicken, salads, potatoes, pastas and beverages, that operate under the name and mark "Shakey's" ("Restaurants"), and

WHEREAS, the System includes, but is not limited to, certain trade names, service marks, trademarks, symbols, logos, emblems and indicia of origin, including, but not limited to, the mark "Shakey's" and such other trade names, service marks, trademarks, symbols, logos, emblems and indicia of origin ("Marks"), as Franchisor may develop in the future to identify for the public the source of services and products marketed under such Marks and under the System using Franchisor's Confidential Information; and

WHEREAS, the Marks and Confidential Information provide economic advantages to Franchisor, and the Confidential Information are not generally known to, and are not readily ascertainable by proper means by, Franchisor's competitors who could obtain economic value from knowledge and use of the Confidential Information; and

WHEREAS, Franchisor has taken and intends to take all reasonable steps to maintain the confidentiality and secrecy of the Confidential Information; and

WHEREAS, Franchisor has granted Franchisee the right to operate a Restaurant using the System for the period defined in the Franchise Agreement dated \_\_\_\_\_, 20\_\_\_\_ ("Franchise Agreement"), between Franchisor and Franchisee; and

WHEREAS, Franchisor and Franchisee have agreed in the Franchise Agreement on the importance to Franchisor and to Franchisee and other licensed users of the System of restricting the use, access and dissemination of the Confidential Information; and

WHEREAS, it will be necessary for certain employees agents, independent contractors, officers, directors and holders of ownership interests in Franchisee, or any entity having an interest in Franchisee of which Covenantor is one, to have access to and to use some or all of the Confidential Information in the management and operation of Franchisee's business using the System; and

WHEREAS, Covenantor wishes to remain, or wishes to become, employed by or associated with Franchisee; and

WHEREAS, Covenantor wishes and needs to receive and use the Confidential Information in the course of his employment or association in order to effectively perform his services for Franchisee; and

WHEREAS, Covenantor acknowledges that receipt of and the right to use the Confidential Information constitutes independent valuable consideration for the representations, promises and covenants made by Covenantor herein.

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties agree as follows:

#### Confidentiality Agreement

1. Franchisor and/or Franchisee shall disclose to Covenantor some or all of the Confidential Information and Confidential Information as defined in Section 1.C. of the Franchise Agreement, relating to the System. All information and materials, including, without limitation, any manuals, drawings, specifications, techniques and compilations of data which Franchisor provides to Franchisee and/or Covenantor shall be deemed Confidential Information for the purposes of this Agreement.

2. Covenantor shall receive the Confidential Information in confidence and shall, at all times, maintain same in confidence, and use same only in the course of his employment by or association with Franchisee and then only in connection with the development and/or operation by Franchisee of a Restaurant using the System for so long as Franchisee is licensed by Franchisor to use the System.

3. Covenantor shall not at any time make copies of any documents or compilations containing some or all of the Confidential Information without Franchisor's express written permission.

4. Covenantor shall not at any time disclose or permit the disclosure of the Confidential Information except to other employees of Franchisee and only to the limited extent necessary to train or assist other employees of Franchisee in the development or operation of a Restaurant using the System.

5. Covenantor shall surrender any material containing some or all of the Confidential Information to Franchisee or Franchisor, upon request, or upon termination of employment by or association with Franchisee, or upon conclusion of the use for which such information or material may have been furnished to Covenantor.

6. Covenantor shall not at any time, directly or indirectly, do any act or omit to do any act that would or would likely be injurious or prejudicial to the goodwill associated with the Confidential Information and the System.

7. All manuals are loaned by Franchisor to Franchisee for limited purposes only and remain the property of Franchisor and may not be reproduced, in whole or in part, without Franchisor's written consent.

#### Covenants Not to Compete

1. In order to protect the goodwill and unique qualities of the System and the confidentiality and value of the Confidential Information, and in consideration for the disclosure

to Covenantor of the Confidential Information, Covenantor further agrees and covenants as follows:

a. Not to divert, or attempt to divert, directly or indirectly, any business, business opportunity, or customer of the Franchisee's Restaurant to any competitor.

b. Not to employ, or seek to employ, any person who is at the time (or has been within the preceding six (6) months) employed by Franchisor, or any of its affiliates, or any franchisee or developer of Franchisor, or otherwise directly or indirectly induce such person to leave that person's employment except as may occur in connection with Franchisee's employment of such person if permitted under the Franchise Agreement.

c. Except with respect to the Restaurant described in the Franchise Agreement and other restaurants operated under Franchise Agreements between Franchisee and its affiliates and Franchisor or its affiliates, not to directly or indirectly, for himself or through, on behalf of, or in conjunction with any person, partnership, limited liability company or corporation, without the prior written consent of Franchisor, own, maintain, operate, engage in or have any financial or beneficial interest in (including any interest in corporations, partnerships, limited liability companies, trusts, unincorporated associations or joint ventures), advise, assist or make loans to, any Competitive Business, as that term is defined in Section 1.C., of the Franchise Agreement.

2. In further consideration for the disclosure to Covenantor of the Confidential Information and to protect the uniqueness of the System, Covenantor agrees and covenants that for three (3) years following the earlier of the expiration, termination or transfer of all of Franchisee's interest in the Franchise Agreement or the termination of his employment by or association with Franchisee, for whatever reason Covenantor will not without the prior written consent of Franchisor:

a. Divert, or attempt to divert, directly or indirectly, any business, business opportunity or customer of the Restaurant to any competitor.

b. Employ, or seek to employ, any person who is at the time (or has been within the preceding six (6) months) employed by Franchisor, or any of its affiliates, or any franchisee or developer of Franchisor, or otherwise directly or indirectly induce such persons to leave that person's employment.

c. Starting on the effective date of the termination, non-renewal or transfer, Covenantor will not directly or indirectly (including, without limitation, through Covenantor's Immediate Family) own any legal or beneficial interest in, or render services or give advice to: (i) any Competitive Business (as defined in Section 1.C., of the Franchise Agreement) located in the Protected Area, as defined in Exhibit A of the Franchise Agreement; (ii) any Competitive Business located within a three (3) mile radius of any other Shakey's Restaurant then operating or under construction; or (iii) any entity granting franchises, licenses or other interests to others to operate any Competitive Business. The above restrictions do not apply to (a) owning or operating other Shakey's Restaurants under franchise agreements with Shakey's; or (b) owning shares of a class of securities listed on a stock exchange or traded on the over-the-counter market and that represent less than five percent (5%) of that class of securities.

Miscellaneous

1. Franchisee shall make all commercially reasonable efforts to ensure that Covenantor acts as required by this Agreement.

2. Covenantor agrees that in the event of a breach of this Agreement, Franchisor would be irreparably injured and be without an adequate remedy at law. Therefore, in the event of such a breach, or threatened or attempted breach of any of the provisions hereof, Franchisor shall be entitled to enforce the provisions of this Agreement and shall be entitled, in addition to any other remedies which are made available to it at law or in equity, including the right to terminate the Franchise Agreement, to a temporary and/or permanent injunction and a decree for the specific performance of the terms of this Agreement, without the necessity of showing actual or threatened harm and without being required to furnish a bond or other security.

3. Covenantor agrees to pay all expenses (including court costs and reasonable attorneys' fees) incurred by Franchisor and Franchisee in enforcing this Agreement.

4. Any failure by Franchisor or the Franchisee to object to or take action with respect to any breach of any provision of this Agreement by Covenantor shall not operate or be construed as a waiver of or consent to that breach or any subsequent breach by Covenantor.

**5. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE WHERE THE RESTAURANT IS LOCATED. COVENANTOR HEREBY IRREVOCABLY SUBMITS HIMSELF OR HERSELF TO THE JURISDICTION OF THE STATE COURTS OF SAID STATE AND THE FEDERAL DISTRICT COURT FOR THE DISTRICT WHERE THE RESTAURANT IS LOCATED. COVENANTOR HEREBY WAIVES ALL QUESTIONS OF PERSONAL JURISDICTION OR VENUE FOR THE PURPOSE OF CARRYING OUT THIS PROVISION. COVENANTOR HEREBY AGREES THAT SERVICE OF PROCESS MAY BE MADE UPON HIM OR HER IN ANY PROCEEDING RELATING TO OR ARISING UNDER THIS AGREEMENT OR THE RELATIONSHIP CREATED BY THIS AGREEMENT BY ANY MEANS ALLOWED BY THE LAWS OF SAID STATE OR FEDERAL LAW. COVENANTOR FURTHER AGREES THAT VENUE FOR ANY PROCEEDING RELATING TO OR ARISING OUT OF THIS AGREEMENT SHALL BE THE COUNTY OR POLITICAL SUBDIVISION WHERE THE RESTAURANT IS LOCATED; HOWEVER, WITH RESPECT TO ANY ACTION WHICH INCLUDES INJUNCTIVE RELIEF OR OTHER EXTRAORDINARY RELIEF, FRANCHISOR OR FRANCHISEE MAY BRING SUCH ACTION IN ANY COURT IN ANY STATE WHICH HAS JURISDICTION.**

6. The parties acknowledge and agree that each of the covenants contained herein are reasonable limitations as to time, geographical area, and scope of activity to be restrained and do not impose a greater restraint than is necessary to protect the goodwill or other business interests of Franchisor. The parties agree that each of the foregoing covenants shall be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant in this Agreement is held unreasonable or unenforceable by a court or agency having valid jurisdiction in any unappealed final decision to which Franchisor is a party, Covenantor

expressly agrees to be bound by any lesser covenant subsumed within the terms of such covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated in and made a part of this Agreement.

7. This Agreement contains the entire agreement of the parties regarding the subject matter hereof. This Agreement may be modified only by a duly authorized writing executed by all parties.

8. All notices and demands required to be given hereunder shall be in writing and shall be sent by personal delivery, expedited delivery service, certified or registered mail, return receipt requested, first-class postage prepaid, facsimile, telegram or telex (provided that the sender confirms the facsimile, telegram or telex by sending an original confirmation copy by certified or registered mail or expedited delivery service within three (3) business days after transmission), to the respective parties at the following addresses unless and until a different address has been designated by written notice to the other parties.

If directed to Franchisor, the notice shall be addressed to:

Shakey's USA, Inc.  
2200 West Valley Boulevard  
Alhambra California 91803

If directed to Franchisee, the notice shall be addressed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

If directed to Covenantor, the notice shall be addressed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

Any notices sent by personal delivery shall be deemed given upon receipt. Any notices given by telex or facsimile shall be deemed given upon transmission, provided confirmation is made as provided above. Any notice sent by expedited delivery service or registered or certified mail shall be deemed given the earlier of actual receipt or three (3) business days after the time of mailing. Any change in the foregoing addresses shall be effected by giving fifteen (15) days written notice of such change to the other parties. Business day for the purpose of this Agreement excludes Saturdays Sundays and national holidays on which federally chartered banks are authorized to close.

9. The rights and remedies of Franchisor under this Agreement are fully assignable and transferable and shall inure to the benefit of its respective affiliates, successors and assigns. The

respective obligations of Franchisee and Covenantor hereunder may not be assigned by Franchisee or Covenantor, without the prior written consent of Franchisor.

IN WITNESS WHEREOF, the undersigned have entered into this Agreement as witnessed by their signatures below.

**FRANCHISOR:  
SHAKEY'S USA, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**FRANCHISEE:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**COVENANTOR:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT D**  
**CONFIDENTIALITY AGREEMENT**

In consideration of my [employment/continued employment by/association with] \_\_\_\_\_ (“EMPLOYER”) and One Dollar (\$1.00), receipt of which is acknowledged, \_\_\_\_\_ acknowledges and agrees that:

1. EMPLOYER operates a Shakey’s Restaurant as a franchisee under a franchise agreement with Shakey’s USA, Inc. (“SHAKEY’S”). SHAKEY’S has developed certain information of a confidential, proprietary or trade secret nature which gives EMPLOYER and SHAKEY’S a competitive edge in its business. For purposes of this Agreement, all such confidential, proprietary or trade secret information will be referred to as “Confidential Information.” Confidential Information includes without limitation: (a) ingredients, recipes and methods of food preparation and presentation methods; (b) site selection criteria for Shakey’s Restaurants and plans and specifications for developing Shakey’s Restaurants; (c) sales, marketing and advertising programs and techniques for Shakey’s Restaurants; (d) knowledge of specifications for, and suppliers of, certain food products, materials, supplies and equipment; (e) knowledge of operating results and financial performance of Shakey’s Restaurants; (f) methods of inventory control, storage, product handling, and management of Shakey’s Restaurants; and (g) information that EMPLOYER or SHAKEY’S has a legal obligation to treat as confidential or which SHAKEY’S treats as proprietary or designates as confidential.

2. I will receive Confidential Information, disclosure of which would be detrimental to EMPLOYER, SHAKEY’S and its franchisees, and other businesses for the sales of pizza and approved food items which operate under the name “Shakey’s Restaurants”. I will not use trade secret information which I have learned from previous employers in connection with EMPLOYER’s business.

3. I will hold in strict confidence the Confidential Information and any other information designated by EMPLOYER or SHAKEY’S as confidential. I will not disclose any portion or all of the Confidential Information to non-Shakey’s Restaurant employees or to employees who are not authorized to have access to the Confidential Information, and I will use it only in connection with my duties as an employee of EMPLOYER as may be necessary in the ordinary course of performing my duties for EMPLOYER or otherwise as directed by EMPLOYER, unless EMPLOYER otherwise agrees in writing. My promise not to disclose the Confidential Information is a condition of my employment by EMPLOYER and continues even after I leave the employ of EMPLOYER.

4. I agree that I will not compete with EMPLOYER during the time that I am employed by or am an agent of EMPLOYER. More specifically, I agree that during that time I will not do any of the following things for myself or for anyone else: (a) encourage customers to do business with any competitor of EMPLOYER; (b) acquire an interest in, or promote, aid or assist, any business that is of the same general type as EMPLOYER; and/or, (c) encourage employees or agents of EMPLOYER to quit their jobs or agency relationships with EMPLOYER or to encourage employees or agents to encourage customers to do business with any competitor of EMPLOYER or to encourage employees or agents to acquire an interest in, or promote, and or

assist, any business that is of the same general type as EMPLOYER's. I agree that my obligation in (c) directly above shall continue beyond the termination date of my employment or agency for an additional period of one (1) year.

5. SHAKEY'S is a third-party beneficiary of this Agreement and may independently enforce it. My violation of this Agreement will cause SHAKEY'S and EMPLOYER irreparable harm; therefore, I acknowledge and agree that SHAKEY'S and EMPLOYER may apply for the issuance of an injunction preventing me from violating this Agreement and I agree to pay SHAKEY'S and/or EMPLOYER all the costs it/they incur(s), including attorneys' fees, if this Agreement is enforced against me. I agree that EMPLOYER may also get a judgment against me for money damages that result from my violation of those duties if SHAKEY'S or EMPLOYER is able to prove the amount of those damages. Due to the importance of this Agreement to EMPLOYER, any claim I have against EMPLOYER is a separate matter and does not entitle me to violate, or justify any violation of this Agreement. If any part of this Agreement is held invalid by a court or agency, the rest of the Agreement is still enforceable and the part held invalid is enforceable to the extent found reasonable by the court or agency.

6. This Agreement has been negotiated, prepared, executed and delivered in several jurisdictions, including the State of California, United States of America. Accordingly, in order to establish with certainty that this Agreement will be governed by one body of well-developed commercial law, the parties hereto have expressly agreed that this Agreement shall be governed by, and construed in accordance with, the laws of the State of California applicable to contracts executed and fully to be performed therein, to the exclusion of any other applicable body of governing law including, without limitation, the United Nations Convention on Contracts for the International Sale of Goods. In the event that either party commences a legal action pursuant to this Agreement, the parties hereto agree that the federal and state courts located in Orange County, State of California, shall have exclusive jurisdiction over any such action.

7. Upon termination of my association with EMPLOYER, I will surrender all records and material relating to the business of EMPLOYER. This Agreement however, will survive any termination of my association with EMPLOYER.

8. I am aware of no prior obligations which would prevent my compliance with the terms and spirit of this Agreement.

9. This Agreement shall be binding upon me and my heirs, executors, administrators and assigns. EMPLOYER shall have the right to assign this Agreement to any successor to the business in which I am employed.

10. I understand that I may conceive of or develop ideas and inventions related to EMPLOYER's Restaurant during or for purposes of my association with EMPLOYER. Such information and inventions which I conceive or develop pertaining to EMPLOYER's Restaurant are the sole property of EMPLOYER and SHAKEY'S and constitute Confidential Information. I agree to disclose promptly to EMPLOYER and SHAKEY'S all inventions, ideas or conceptions, developments and improvements (whether or not patentable or subject to copyright) which are made or conceived by me, either alone or together with others, during or as a result of my association with EMPLOYER, provided that they pertain to EMPLOYER's Restaurant. I will keep

complete records of such matter and will and hereby do assign such matter to EMPLOYER whether or not it has been tested or reduced to practice. Included are all data processing communications, computer software systems, programs, procedures and so forth which pertain to EMPLOYER's Restaurant.

Upon request of EMPLOYER, either during or after my association with EMPLOYER, I will assist in applying for Letters Patent or for copyright on all such inventions and ideas made or conceived by me, and I will execute all papers necessary thereto, including assignments as may be requested by EMPLOYER, without further compensation to me.

This Agreement does not apply to an invention which qualifies fully under the provisions of Section 2872 of the Labor Code of California as an invention for which no equipment, supplies, facility, or trade secret information EMPLOYER was used and which was developed entirely on my own time, and which does not relate to EMPLOYER's Restaurant or to EMPLOYER's actual or demonstrably anticipated research or development, or which does not result from any work I performed for EMPLOYER.

11. This Agreement shall be construed under the laws of the State of California. The only way this Agreement can be changed is in writing signed by both EMPLOYER and me.

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

**NOTICE**

**Attention: Employees**

California Labor Code 2872 requires this Agreement to provide you with written notification as to certain of your inventive rights. This notification must include the fact that the agreement to assign invention cannot apply to an invention with qualifies fully under Section 2870 of the California Labor Code. Section 2870 of the California Labor Code provides:

“(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer’s equipment, supplies, facilities, or trade secret information except for those inventions that either:

(1) Relate at the time of conception or reduction to practice of the invention to the employer’s business, or actual or demonstrably anticipated research or development of the employer.

(2) Result from any work performed by the employee for the employer.

(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable.”

Date: \_\_\_\_\_

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

**EXHIBIT E**  
**ELECTRONIC FUNDS TRANSFER AUTHORIZATION**  
**(DIRECT DEBITS)**

The undersigned depositor (“Depositor”) hereby (i) authorizes Shakey’s USA, Inc. (“Company”) to initiate debit entries and/or credit correction entries to the undersigned’s checking and/or savings account indicated below and (ii) authorizes the depository designated below (“Depository”) to debit such account pursuant to Company’s instructions. Debit entries shall be for amounts owed by Depositor to Company arising from or related to the Franchise Agreement between Depositor and Company dated \_\_\_\_\_, 20\_\_.

<b>Depository</b>	<b>Branch</b>	
<b>City</b>	<b>State</b>	<b>Zip Code</b>
<b>Bank Transit/ABA Number</b>	<b>Account Number</b>	

This authority is to remain in full force and effect until Depository has received written notification from Company of the termination of such authority in such time and in such manner as to afford Depository a reasonable opportunity to act on it. Notwithstanding the foregoing, Depository shall provide Company and Depositor with 30 days’ prior written notice of the termination of this authority. If an erroneous debit entry is initiated to Depositor’s account, Depositor shall have the right to have the amount of such entry credited to such account by Depository, if (a) within 15 calendar days following the date on which Depository sent to Depositor a statement of account or a written notice pertaining to such entry or (b) 45 days after posting, whichever occurs first, Depositor shall have sent to Depository a written notice identifying such entry, stating that such entry was in error and requesting Depository to credit the amount thereof to such account. These rights are in addition to any rights Depositor may have under federal and state banking laws.

<b>DEPOSITOR (Franchisee/Print Name)</b>	<b>DEPOSITORY (Bank/Print Name)</b>
<b>By:</b> _____	<b>By:</b> _____
<b>Its:</b> _____	<b>Its:</b> _____
<b>Date:</b> _____	<b>Date:</b> _____

**EXHIBIT F**  
**SECURITY AGREEMENT**

**Shakey's USA, Inc.**, a Delaware corporation ("Secured Party"), and \_\_\_\_\_  
\_\_\_\_\_ ("Debtor") agree as follows as of \_\_\_\_\_, 20\_\_ :

**1. Background.**

Secured Party, as Franchisor, and Debtor, as Franchisee, are parties to a franchise agreement of even date (the "Franchise Agreement") pursuant to which, among other things, Debtor is obligated to pay, from time to time, certain sums to Secured Party. In order to induce Secured Party to enter into the Franchise Agreement, Debtor, among other things, is entering into this Security Agreement pursuant to which Debtor's payment and performance of all obligations under the Franchise Agreement are secured on the terms and conditions hereinafter provided for. Capitalized terms which are defined in the Franchise Agreement shall have the same meaning herein as therein.

**2. Security Interest.**

2.1 Grant of Security Interest. To secure the payment and performance by Debtor of all obligations and liabilities under the Franchise Agreement (such payment and performance of such obligations and liabilities being hereinafter collectively referred to as the "Obligations"), Debtor hereby grants to Secured Party, and Secured Party hereby takes, a first priority security interest (the "Security Interest") in all of Debtor's assets, including, without limitation, all present and after acquired inventory and equipment (wherever located), accounts, deposit accounts, chattel paper, instruments, contract rights (including Debtor's rights under this Agreement) and general intangibles, including payment intangibles, and all proceeds and products thereof including insurance proceeds (collectively the "Collateral").

**3. Default.**

3.1 Definitions. The term "Event of Default", as used, herein, shall mean the occurrence and continuation of any one or more of the following events:

(a) any failure of Debtor promptly and faithfully to pay, observe and perform, when due, any of the Obligations; or

(b) if Debtor becomes insolvent, commits an act of bankruptcy, files a voluntary petition in bankruptcy, or an involuntary petition in bankruptcy is filed, or a permanent or temporary receiver or trustee for the Restaurant, or all or substantially all of the Debtor's property, is appointed by any court and such appointment is not actively opposed through legal action, or Debtor makes an assignment or arrangement for the benefit of creditors, or calls a meeting of creditors, or Debtor makes a written statement to the effect that he or it is unable to pay his or its debts as they become due, or a levy of execution is made upon Debtor, or an attachment or lien remains outstanding with respect to the Restaurant for thirty (30) days, unless the attachment or lien is being duly contested in good faith by Debtor, and Secured Party is so advised in writing;

(c) if Debtor loses possession or the right of possession of all or a significant part of the Restaurant through condemnation or casualty and the Restaurant is not relocated or reopened as required by the Franchise Agreement;

(d) if Debtor is a corporation, partnership, joint venture or other legal entity, any action is taken which purports to merge, consolidate, dissolve or liquidate Debtor without the prior written consent of Secured Party.

3.2 Remedies. Upon the occurrence of an Event of Default, all amounts payable to Secured Party shall become immediately due and payable and Secured Party shall have all the rights and remedies of a secured party under the Uniform Commercial Code as in effect in the state or states in which the Collateral may be located, including the right to enter upon the Restaurant peaceably and remove all Collateral. Secured Party shall give Debtor reasonable notice of the time and place of any public or private sale or other intended disposition of all or any particular Collateral, as the case may be. Debtor agrees that the requirement of reasonable notice shall be met if notice is mailed to Debtor at its address first above written not less than five (5) business days prior to the sale or other disposition. Expenses of retaking, holding, preparing for sale, selling or the like, shall include, without limitation, Secured Party's reasonable attorneys' fees and other legal expenses. Secured Party's rights and remedies, whether pursuant hereto or pursuant to the above referenced Uniform Commercial Code or any other statute or rule of law conferring rights similar to those conferred by the above referenced Uniform Commercial Code, shall be cumulative and not alternative.

#### **4. Notices.**

Any notice, request or other communication to either party by the other as provided for herein shall be given in writing and shall be deemed given on the date the same is (i) actually received or (ii) mailed by certified or registered mail, return receipt requested, postage prepaid and addressed to the addresses first set forth at the head of this Agreement. The person and the place to which notices or copies of notices are to be mailed to either party may be changed from time to time by such party by written notice to the other party.

#### **5. Applicable Law.**

This Agreement shall be governed by and interpreted under the laws of the State where the Restaurant is located, without regard to the principles of conflict of laws thereof.

#### **6. Termination of Security Interest.**

Upon satisfaction of all the Debtor's obligations under the Franchise Agreement (including, without limitation, all obligations which expressly or by their nature survive the expiration or termination of the Franchise Agreement), Secured Party shall file such notices and other documents that Secured Party determines are necessary to terminate the Security Interest.

#### **7. Representations and Warranties.**

Debtor hereby represents and warrants that:

7.1 If Debtor is an entity created by a filing: Debtor is a [corporation, limited liability company, limited partnership] duly organized in the State of \_\_\_\_\_.

7.2 If Debtor is an entity not created by a filing with a state: Debtor is a [general partnership, \_\_\_\_\_] the formation of which did not require a filing with the state, and Debtor's chief executive office is located in the State of \_\_\_\_\_.

7.3 If Debtor is an individual: Debtor is a resident of the State of \_\_\_\_\_.

7.4 If Debtor is a non-US entity: Debtor is formed under the laws of the Country of \_\_\_\_\_.

7.5 No part of the Collateral is subject to any other lien, security interest or other encumbrance.

Debtor agrees to notify Secured Party immediately of any change in Debtor's state of incorporation or organization or the state in which Debtor's principal residence is located, as applicable.

**8. Miscellaneous.**

8.1 This Security Agreement shall inure to the benefit of, and shall be binding upon the respective successors, assigns and legal representatives of the parties hereto.

8.2 The captions used herein are inserted for reference purposes only and shall not affect the interpretation or meaning of this Security Agreement.

8.3 Debtor hereby authorizes Secured Party, from time to time, to file financing statements in such form as may be necessary to perfect the security interest in the Collateral in any or all pertinent jurisdictions and in this regard, to execute said financing statements for itself (as secured party) and for Debtor (as debtor), as Debtor's agent. Upon Secured Party's request, Debtor shall execute any such financing statement as debtor, although Secured Party may file same without Debtor's signature.

**SECURED PARTY:**

**Shakey's USA, Inc.**  
a Delaware corporation

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

**DEBTOR:**

\_\_\_\_\_  
\_\_\_\_\_

Location of Collateral:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**Exhibit "C"**

**Area Development Agreement**

**AREA DEVELOPMENT  
AGREEMENT**

DEVELOPER

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DATE OF AGREEMENT

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Exhibit A – Development Area

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Exhibit F – Confidentiality Agreement and Covenants Not to Compete

**SHAKEY'S USA, INC.**  
**AREA DEVELOPMENT AGREEMENT**

THIS AREA DEVELOPMENT AGREEMENT ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Shakey's USA, Inc., a Delaware corporation with its principal office at 2200 West Valley Blvd. Alhambra, CA 91803 ("FRANCHISOR") and \_\_\_\_\_ whose principal address is \_\_\_\_\_ ("DEVELOPER"). FRANCHISOR and DEVELOPER are collectively referred to as the "Parties".

**1. INTRODUCTION AND ACKNOWLEDGMENTS**

**A. INTRODUCTION.**

Franchisor offers franchises for Shakey's Pizza Parlors ("Shakey's Restaurants"). Shakey's Restaurants offer a family dining experience featuring pizza (thin, pan, and gourmet), chicken, salad, potatoes, pastas, and beverages, including beer and wine (where available), and operate under the System (defined below). The Shakey's Restaurants located in California may offer buffet meals for lunch. The Shakey's Restaurants located in the Midwest and East Coast regions may offer buffet meals through the day. Most Shakey's Restaurants feature redemption game rooms.

FRANCHISOR uses and licenses certain trademarks, service marks and trade dress, including the mark "SHAKEY'S," and such other marks, logos and commercial symbols as FRANCHISOR may adopt from time to time (the "Marks"). FRANCHISOR has a comprehensive system for developing, marketing and operating Shakey's Restaurants (the "System"). The System includes the Marks, building design and layouts, equipment, ingredients, recipes, methods of preparation and specifications for authorized food products and beverages (the "Approved Menu Items"), methods of inventory and operations control, and particular business practices and policies; all of which FRANCHISOR may modify from time to time.

**B. ACKNOWLEDGMENTS.**

This Agreement is being presented to DEVELOPER because of DEVELOPER's desire to obtain the rights to develop and operate multiple Shakey's Restaurants. In signing this Agreement, DEVELOPER acknowledges the importance of the high standards of quality and services of Shakey's Restaurants and the necessity of operating Shakey's Restaurants in strict compliance with the System.

DEVELOPER further acknowledges that FRANCHISOR or its agents has provided to DEVELOPER a Franchise Disclosure Document fourteen (14) days before the execution of this Agreement, or fourteen (14) days before payment of any consideration by DEVELOPER for the franchise.

DEVELOPER also acknowledges that DEVELOPER has conducted an independent investigation of FRANCHISOR, Shakey's Restaurants and the market area

in which DEVELOPER shall develop and operate Shakey's Restaurants and recognizes that, like any other business, DEVELOPER'S business may evolve and change with time, that an investment in Shakey's Restaurants involves business risk, and that the success of this business venture is primarily dependent upon DEVELOPER's business abilities and efforts.

DEVELOPER acknowledges that DEVELOPER has not received or relied on any guaranty, express or implied, as to the revenues, profits, or likelihood of success of the Shakey's Restaurants that DEVELOPER will develop pursuant to this Agreement. DEVELOPER acknowledges that there have been no representations by FRANCHISOR's directors, employees, or agents that are not contained in, or consistent with, the statements made in the Franchise Disclosure Document or with the provisions in this Agreement. DEVELOPER acknowledges that in all of DEVELOPER'S dealings with FRANCHISOR, the officers, directors, employees and agents of FRANCHISOR acted only in a representative capacity and not in an individual capacity. DEVELOPER further acknowledges that this Agreement and all business dealings between DEVELOPER and such individuals as a result of this Agreement are solely between DEVELOPER and FRANCHISOR. DEVELOPER represents to FRANCHISOR, as an inducement to FRANCHISOR entering into this Agreement, that there have been no misrepresentations made to FRANCHISOR in the franchise application, financial statements or other information submitted to FRANCHISOR by DEVELOPER.

If DEVELOPER is a corporation, limited partnership, limited liability company or other business entity, DEVELOPER: (1) represents and warrants that it is duly organized and validly existing in good standing under the laws of the State of its incorporation or organization, is qualified to do business in all states in which its business activities or the nature of the properties owned by DEVELOPER require such qualification, and has the corporate authority to execute, deliver and perform all of the terms of this Agreement; and (2) agrees that all certificates representing ownership interests in, DEVELOPER now outstanding or hereafter issued shall be endorsed with a legend, in form approved by FRANCHISOR, relating to the transfer of the ownership interests and that DEVELOPER is subject to certain restrictions contained in this Agreement.

FRANCHISOR grants, to qualified persons who meet FRANCHISOR's qualifications and who are willing to undertake the investment and effort, the right to develop a number of Shakey's Restaurants within a defined geographical area.

## **2. DEFINITIONS**

For purposes of this Agreement, the terms listed below have the meanings that follow them. Other terms used in this Agreement are defined and construed in the context in which they appear.

**“Affiliate”** - Any person, entity or company directly or indirectly owning or controlling the referenced party, directly or indirectly owned or controlled by the referenced party, or under common control with the referenced party. The term “control” means the possession, directly or indirectly, of the power to direct or cause the direction

of management and policies, whether through ownership of voting interests, by contract, or otherwise.

**“Authorized Entity”** - An entity controlled by a “Continuity Group” which meets FRANCHISOR’s then current standards and requirements, and is comprised of persons who FRANCHISOR and DEVELOPER have designated (listed on Exhibit D). At all times during the term hereof, the “Continuity Group” shall own at least: (1) fifty-one percent (51%) of the voting securities of DEVELOPER; (2) fifty-one percent (51%) of the membership interest in DEVELOPER if DEVELOPER is a limited liability company; or (3) fifty-one percent (51%) of the operating profits and losses and at least fifty-one percent (51%) ownership interest in DEVELOPER, if DEVELOPER is a partnership. In the event of any change in the Continuity Group or in the ownership interests of any member of the Continuity Group, DEVELOPER shall execute an addendum to Exhibit D to reflect the changes. All persons listed on Exhibit D, shall sign the Continuing Personal Guaranty (Exhibit E) and the Confidentiality Agreement and Covenants Not to Compete (Exhibit F).

**“Competitive Business”** - Any restaurant or other business which features game rooms and the sale of pizza, or any other business featuring a concept similar to the Shakey’s Restaurant concept, as Shakey’s evolves or changes over time.

**“Confidential Information”** - FRANCHISOR’s proprietary and confidential information relating to the development, marketing and operation of Shakey’s Restaurants, including, without limitation: (1) ingredients, recipes, and methods of food preparation and presentation methods; (2) site selection criteria for Shakey’s Restaurants and plans and specifications for developing Shakey’s Restaurants; (3) sales, marketing and advertising programs and techniques for Shakey’s Restaurants; (4) knowledge of specifications for, and suppliers of, certain food products, materials, supplies and equipment; (5) knowledge of operating results and financial performance of Shakey’s Restaurants other than the Restaurants (defined below); and (6) methods of inventory control, storage, product handling, and management of Shakey’s Restaurants.

**“Development Schedule”** - Each period of time defined as a Development Period in Section 2 of Exhibit B to this Agreement.

**“Development Area”** - The geographic area described in Exhibit A attached hereto, excluding Non-Traditional Locations.

**“Franchise Agreement”** - The then current form of franchise agreement (including any exhibits, riders, collateral assignments, guarantees and any other agreements used in connection therewith) customarily used by FRANCHISOR in the offering and granting of a franchise for the operation of a Shakey’s Restaurant, (pursuant to FRANCHISOR’s standard form of area development agreement), a copy of which is attached hereto as Exhibit D.

**“Restaurants”** - The franchised Shakey’s Restaurants developed and operated by DEVELOPER or an Authorized Entity at Approved Sites (as defined below) pursuant to this Agreement and the applicable Franchise Agreement.

**“Shakey's Restaurant”** - A restaurant that operates under the Marks and the rest of the System.

**“Website”** - An interactive electronic document contained in a network of computers linked by communications software, including Internet and World Wide Web home pages.

### **3. DEVELOPMENT RIGHTS AND OBLIGATIONS**

#### **A. TERM OF AGREEMENT/RIGHTS DURING TERM.**

DEVELOPER has applied to FRANCHISOR for the right to develop, own and operate Restaurants in the Development Area, and such application has been approved by FRANCHISOR in reliance upon all of DEVELOPER’s representations made in such application. Subject to the provisions of this Agreement, this Agreement shall be for a term commencing on the date hereof and expiring on the earlier of: (1) the last day of the last Development Period set forth in Section 2 of Exhibit B to this Agreement; or (2) the date on which the Development Quota set forth on Exhibit B (as defined in Section 3.C below) has been fulfilled. Provided that the DEVELOPER is in full compliance with all of the terms and conditions of this Agreement, including the development obligations contained in Paragraph C of this Section, and DEVELOPER and any Authorized Entities are in full compliance with all of their obligations under all Franchise Agreements executed pursuant hereto, then during the term of this Agreement, FRANCHISOR: (1) will grant to DEVELOPER (or an Authorized Entity), in accordance with the provisions of Section 4 hereof, franchises for the operation of Restaurants in the Development Area; and (2) will not directly nor through Affiliates operate, nor grant the right to operate, a Shakey’s Restaurant physically located within the Development Area (except franchises which are granted to DEVELOPER or an Authorized Entity pursuant to this Agreement and except as provided in Paragraph D of this Section). Upon termination or expiration of this Agreement as provided herein, the rights of DEVELOPER under this Agreement shall terminate and FRANCHISOR and its Affiliates shall be free to operate, and to grant to others development rights and franchises to operate, Shakey’s Restaurants within the Development Area, subject only to territorial rights, if any, granted to DEVELOPER or an Authorized Entity pursuant to any then existing Franchise Agreements.

#### **B. RIGHTS RETAINED BY FRANCHISOR.**

FRANCHISOR (on behalf of itself and its Affiliates) retains the rights, in its sole discretion, to operate and grant others the right to operate, within the Development Area, facilities under trade names, service marks, and trademarks other than the Marks, if such facilities are directly or indirectly acquired by FRANCHISOR or its Affiliates or if

FRANCHISOR or its Affiliates have acquired directly or indirectly the rights and obligations of the owners of such facilities.

FRANCHISOR and its Affiliates also retain the right, in their sole discretion, to: (1) operate and grant to others the right to operate Shakey's Restaurants anywhere outside of the Development Area, including on the border of the Development Area, on such terms and conditions as FRANCHISOR deems appropriate; (2) acquire and operate, or be acquired by, any company (including, without limitation, a company operating one or more food service businesses located or operating within the Development Area); (3) sell any products identified by the Marks or by other trademarks, service marks, trade names or other commercial symbols in any channel of distribution (other than a Shakey's Restaurant physically located within the Development Area), including, without limitation, wholesale, telephone and/or delivery methods, Internet sales, sales through non-franchised retail outlets, sales through franchised or non-franchised stadiums, convention centers, hospitals, recreation centers, train stations, airports, bus stations, military sites or through independent distributors, whether within or outside of the Development Area (subject to Section 3.D below); and/or (4) purchase or acquire retail operations, including, without limitation, stadiums, convention centers, hospitals, recreation centers, train stations, airports, bus stations, military sites, kiosks, takeout, fast-food or other locations, or companies or franchisors which own or franchise restaurants, kiosks, takeout, fast-food and other locations, whether such locations are located within or outside of the Development Area.

#### **C. DEVELOPMENT OBLIGATIONS.**

This Agreement does not give DEVELOPER the right to operate Restaurants or use the Marks or System, nor does this Agreement give DEVELOPER any right to license others to operate Restaurants or use the System. This Agreement only gives DEVELOPER a right to enter into franchise agreements for the operation of Restaurants in the Development Area approved by FRANCHISOR.

DEVELOPER agrees that, during the term of this Agreement and any extensions thereof, DEVELOPER will at all times faithfully, honestly, and diligently perform DEVELOPER'S obligations hereunder and will continuously exert DEVELOPER'S best efforts to promote and enhance the development of Restaurants within the Development Area. Without limiting the foregoing, DEVELOPER agrees to have open and in operation at the end of each Development Period the number of Restaurants set forth in Section 2 of Exhibit B ("Development Quota").

#### **D. NON-TRADITIONAL LOCATIONS.**

During the term of this Agreement, FRANCHISOR shall have the sole and absolute discretion to determine whether to franchise the operation of a Shakey's Restaurant from certain locations within the Development Area, including without limitation, stadiums, convention centers, hospitals, recreation centers, train stations, airports, bus stations, military sites, colleges, universities and other educational sites ("Non-Traditional Locations"). In the event that FRANCHISOR decides to franchise a

Shakey's Restaurant at a Non-Traditional Location within the Development Area, FRANCHISOR shall give notice to DEVELOPER of such determination and advise DEVELOPER of the proposed location or location(s) of the proposed Shakey's Restaurants. FRANCHISOR shall also advise DEVELOPER in such notice as to whether DEVELOPER is in compliance with all agreements between DEVELOPER and FRANCHISOR or its Affiliates and whether DEVELOPER otherwise meets FRANCHISOR's then applicable financial and other qualifications for franchisees. If DEVELOPER is in compliance with all agreements between DEVELOPER and FRANCHISOR or its Affiliates and DEVELOPER is otherwise qualified to become the franchisee of the Non-Traditional Location, DEVELOPER shall have, for a period of thirty (30) days after the date of such notice, the sole right and option to purchase the franchise for such location on the terms and conditions of the then current franchise agreement for the operation of a Shakey's Restaurant, but must also purchase or assume any assets or agreements of FRANCHISOR relating to the proposed location at the price paid by FRANCHISOR for such assets. In the event DEVELOPER fails to exercise this option within the aforesaid thirty (30) days, FRANCHISOR (or an Affiliate) shall have the right, from that time forward, to open and operate or franchise the operation of a Shakey's Restaurant at that location, without obligation or liability to DEVELOPER.

#### **4. GRANT OF FRANCHISES TO DEVELOPER.**

Subject to the provisions of Section 3 hereof, FRANCHISOR agrees to offer to DEVELOPER or an Authorized Entity franchises for the ownership and operation of Restaurants located within the Development Area, on the following terms and conditions:

**A.** DEVELOPER shall submit to FRANCHISOR complete site reports in a form supplied and approved by FRANCHISOR (containing such demographic, commercial and other information and photographs as FRANCHISOR may reasonably require) for each site at which DEVELOPER proposes to establish and operate a Restaurant and which DEVELOPER reasonably believes to conform to site selection criteria established by FRANCHISOR from time to time. The proposed site shall be subject to FRANCHISOR's prior written approval. In approving or disapproving any proposed site, FRANCHISOR will consider such matters as it deems material, including, without limitation, demographic characteristics of the proposed site, traffic patterns, difficulty of ingress and egress, parking, the proximity to other businesses (including other restaurants and food service businesses), the nature of other businesses in proximity to the site, other commercial characteristics (including the purchase price or rental obligations and other lease terms for the proposed site) and the size, appearance and other physical characteristics of the premises. In the event the proposed site is located within a mall or shopping center, the proposed site must meet FRANCHISOR's standards with respect to the overall characteristics of the mall or shopping center, the location of the site within the mall or shopping center, quality, quantity and type of tenants in the mall or shopping center and demographic characteristics of the mall or shopping center traffic.

**B.** By delivery of written notice to DEVELOPER, FRANCHISOR will approve or disapprove sites proposed by DEVELOPER for the operation of a Restaurant. (A site approved by FRANCHISOR is hereinafter referred to as an "Approved Site.")

FRANCHISOR agrees to exert its best efforts to deliver such notification to DEVELOPER within forty-five (45) days of receipt by FRANCHISOR of the complete site report and other materials requested by FRANCHISOR, containing all information reasonably required by FRANCHISOR and the completion by FRANCHISOR of such on-site evaluations as FRANCHISOR deems advisable. FRANCHISOR'S approval of a site does not mean that the site will be profitable. DEVELOPER is cautioned not to make any binding commitments for a site until receiving FRANCHISOR'S written approval.

C. Promptly after approval of any site, FRANCHISOR shall transmit to DEVELOPER, a Disclosure Document and two (2) execution copies of the then current Franchise Agreement, the terms of which may differ from those in Exhibit D hereto, except for the initial franchise fee, royalty and advertising expenditures. Immediately upon receipt of the Disclosure Document, DEVELOPER shall return to FRANCHISOR a signed copy of the Acknowledgement of Receipt of the Disclosure Document. After the passage of any applicable disclosure period, DEVELOPER shall execute and deliver to FRANCHISOR, the two (2) copies of the Franchise Agreement and the initial franchise fee required pursuant to the Franchise Agreement. FRANCHISOR shall promptly, upon receipt of the documents and initial franchise fee, execute and return to DEVELOPER one (1) copy of the Franchise Agreement. DEVELOPER shall then procure the Approved Site by purchase or lease and commence construction and operation of the Restaurant pursuant to the terms of the Franchise Agreement. If DEVELOPER shall have failed to obtain possession of an Approved Site (through acquisition or lease) within ninety (90) days after delivery of FRANCHISOR'S approval thereof, FRANCHISOR shall have the right to withdraw its approval of the site. Notwithstanding the foregoing, if FRANCHISOR is not legally able to deliver a Disclosure Document to DEVELOPER by reason of any lapse or expiration of its franchise registration, or because FRANCHISOR is in the process of amending any such registration, or for any reason beyond FRANCHISOR'S reasonable control, FRANCHISOR may delay approval of the site for DEVELOPER'S proposed Restaurant until such time as FRANCHISOR is legally able to deliver a Disclosure Document. If DEVELOPER fails to execute and return the Franchise Agreement with the respective payment, FRANCHISOR shall have the right to revoke its offer to grant to DEVELOPER a franchise to operate a Restaurant at the proposed site and to withdraw its approval of the proposed site.

## **5. DEVELOPMENT FEE**

Concurrently with the execution of this Agreement, DEVELOPER shall pay to FRANCHISOR the sum set forth in Section 1 of Exhibit B hereof as a nonrefundable development fee. The development fee shall be deemed fully earned by FRANCHISOR upon FRANCHISOR'S execution of this Agreement.

## **6. CONFIDENTIALITY**

FRANCHISOR will disclose certain Confidential Information to DEVELOPER in guidance and assistance furnished to DEVELOPER during the term of this Agreement and Franchise Agreements executed pursuant hereto, and DEVELOPER may learn

additional Confidential Information during the term of this Agreement and such Franchise Agreements. DEVELOPER acknowledges and agrees that DEVELOPER will not acquire any interest in the Confidential Information, other than the right to utilize certain Confidential Information in the development and operation of Restaurants pursuant to this Agreement and Franchise Agreements, and that the use or duplication of the Confidential Information in any other business would constitute an unfair method of competition with FRANCHISOR and other Shakey's developers and franchisees. DEVELOPER acknowledges and agrees that the Confidential Information is a valuable asset of FRANCHISOR, which includes trade secrets of FRANCHISOR and is disclosed to DEVELOPER solely on the condition that DEVELOPER agrees, and DEVELOPER does hereby agree, that DEVELOPER: (1) not use the Confidential Information in any other business or capacity; (2) maintain the absolute secrecy and confidentiality of the Confidential Information during and after the term of this Agreement; (3) not make unauthorized copies of any portion of the Confidential Information disclosed in written, audio, video or other reproducible form; (4) post signs on the premises of each RESTAURANT in a form prescribed by FRANCHISOR, regarding the confidential nature of the Shakey's ingredients and techniques; and (5) adopt and implement all reasonable procedures prescribed from time to time by FRANCHISOR to prevent unauthorized use or disclosure of the Confidential Information. Furthermore, DEVELOPER shall not sell or provide to any person or entity, other than FRANCHISOR, for use, testing or any other purpose, any mixes for preparation of "Approved Menu Items", as specified in the FRANCHISOR'S Operations Manual.

DEVELOPER agrees to cause each of its employees, and agents to execute and deliver to DEVELOPER a Confidentiality Agreement in substantially the form of Exhibit D attached to the Franchise Agreement. A copy of each such executed Confidentiality Agreement shall be kept on the premises of DEVELOPER's principal office and at each Restaurant at which the respective employees are employed. FRANCHISOR shall have the right at all times to inspect the Confidentiality Agreements during business hours. DEVELOPER shall, upon request of FRANCHISOR, deliver copies of any Confidentiality Agreement requested by FRANCHISOR.

## **7. EXCLUSIVE RELATIONSHIP**

DEVELOPER agrees and acknowledges that FRANCHISOR would be unable to protect the Confidential Information against unauthorized use or disclosure and would be unable to encourage a free exchange of ideas and information among Shakey's Restaurants if developers and franchisees of Shakey's Restaurants and members of their immediate families were permitted to hold interests in or perform services for any Competitive Business. FRANCHISOR has entered into this Agreement with DEVELOPER on the express condition that, with respect to the operation of a restaurant business, DEVELOPER and its owners and members of their respective immediate families will deal exclusively with FRANCHISOR. DEVELOPER therefore agrees that, during the term of this Agreement, except for Shakey's Restaurants operated under agreements with FRANCHISOR, neither DEVELOPER (nor any shareholder, partner, member or other owner of DEVELOPER, in the event DEVELOPER is a corporation, partnership, limited liability company or other business entity), nor any member of the

immediate family of DEVELOPER or any member of the immediate family of any shareholder, member or partner of DEVELOPER, shall: (1) have any direct or indirect ownership interest in any Competitive Business; (2) have any direct or indirect ownership interest in any entity which is granting franchises or licenses or establishing joint ventures for the operation of Competitive Businesses; or (3) perform services as a director, officer, manager, employee, consultant, representative, agent or otherwise for any Competitive Business or any business which is granting franchises or licenses or establishing joint ventures for the operation of Competitive Businesses. The restrictions of this Section shall not be applicable to the ownership of securities listed on an exchange or traded on the over-the-counter market that represent five percent (5%) or less of the number of shares of that class of securities issued and outstanding.

## **8. MARKS**

DEVELOPER acknowledges that DEVELOPER's right to use the Marks is derived solely from Franchise Agreements contemplated by this Agreement, and that this Agreement does not grant DEVELOPER any rights to use the Marks.

## **9. OBLIGATIONS OF DEVELOPER**

### **A. FULL-TIME SUPERVISOR.**

DEVELOPER (or, if DEVELOPER is a corporation, partnership, limited liability company or other business entity, a managing partner, member or shareholder approved by FRANCHISOR) shall exert his or her full-time efforts to the fulfillment of the obligations of DEVELOPER under this Agreement. DEVELOPER (or such managing partner, member or shareholder) shall supervise the development and operation of Restaurants franchised pursuant hereto, but need not be engaged in the day-to-day operations of any such Restaurant.

### **B. MANAGEMENT PERSONNEL.**

DEVELOPER shall hire and maintain the number and level of management personnel required for adequate management and supervision of all Restaurants developed pursuant to this Agreement, in accordance with guidelines established from time to time by FRANCHISOR. DEVELOPER shall keep FRANCHISOR advised of the identities of such personnel. DEVELOPER shall be responsible for ensuring that such personnel are properly trained to perform their duties.

### **C. EMPLOYEES OF DEVELOPER.**

During the term of this Agreement, DEVELOPER shall not directly or indirectly employ or seek to employ any person who is employed by FRANCHISOR or its Affiliates or by any other developer or franchisee of FRANCHISOR, nor induce nor attempt to induce any such person to leave said employment without the prior written consent of FRANCHISOR and such person's employer. During the term of this Agreement, FRANCHISOR shall not directly or indirectly employ or seek to employ any person who is employed by DEVELOPER or by any entity controlled by DEVELOPER,

nor induce any such person to leave said employment, without the prior written consent of DEVELOPER.

**D. FINANCIAL CAPACITY.**

DEVELOPER shall maintain sufficient financial resources to fulfill DEVELOPER's obligations under this Agreement and under Franchise Agreements executed pursuant to this Agreement.

**E. INSURANCE.**

During the term of this Agreement, in addition to insurance required to be maintained pursuant to Franchise Agreements with FRANCHISOR, DEVELOPER shall maintain in force, under policies of insurance issued by carriers rated "A" or "A+" by A.M. Best Company, approved by FRANCHISOR, comprehensive public and motor vehicle liability insurance against claims for bodily and personal injury, death and property damage caused by or occurring in conjunction with the conduct of the business by DEVELOPER pursuant to this Agreement, under one or more policies of insurance containing minimum liability coverages prescribed by FRANCHISOR from time to time. Each insurance policy shall name FRANCHISOR as an additional named insured, shall contain a waiver of all subrogation rights against FRANCHISOR, its Affiliates, and their successors and assigns, and shall provide for thirty (30) days prior written notice to FRANCHISOR of any material modification, cancellation, or expiration of such policy. DEVELOPER shall furnish to FRANCHISOR annually a copy of the certificate of insurance or other evidence requested by FRANCHISOR that such insurance coverage is in force.

**F. RECORDS AND REPORTS.**

DEVELOPER agrees, at its expense, to maintain and preserve at its principal office full, complete and accurate records and reports pertaining to the operation of the Restaurants within the Development Area and the performance by DEVELOPER of its obligations under this Agreement, including but not limited to: records and information on the following: site reports, leases for the Restaurants, supervisory reports on the operation of the Restaurants, records reflecting financial condition of DEVELOPER, and such other records and reports as may be prescribed by FRANCHISOR from time to time. FRANCHISOR has the right to specify the manner and method of storage and retrieval of all reports and to inspect such materials at any time without prior notice.

DEVELOPER shall deliver to FRANCHISOR in the form from time to time prescribed by FRANCHISOR: (1) by the twentieth (20th) day of each month, a report of DEVELOPER's activities during the immediately preceding calendar month, including but not limited to, DEVELOPER's activities in locating and developing sites and monitoring the operation of the Restaurants; (2) within ninety (90) days after the end of DEVELOPER's fiscal year, which shall coincide with the calendar year, a fiscal year end balance sheet for DEVELOPER and an income statement for such fiscal year; and (3) upon request by FRANCHISOR, such other data, reports, information and supporting

records as FRANCHISOR may from time to time prescribe. FRANCHISOR has the right to disclose data derived from such reports and statements if FRANCHISOR considers such disclosure necessary or advisable. DEVELOPER shall immediately report to FRANCHISOR any events or developments which may have a significant or material adverse impact on the operation of any Restaurants within the Development Area, the performance of DEVELOPER under this Agreement, or the goodwill of the Restaurants. Each such written report and financial statement submitted by DEVELOPER shall be verified as correct and signed by DEVELOPER in the manner prescribed by FRANCHISOR.

#### **G. ELECTRONIC ADVERTISING.**

DEVELOPER specifically acknowledges and agrees that any Website shall be deemed “advertising” as defined under the Franchise Agreement, and will be subject to (among other things) the provisions of Section 12.C. In connection with any Website, DEVELOPER agrees to the following:

(1) Before establishing the Website, DEVELOPER shall submit to FRANCHISOR a sample of the Website format and information in the form and manner FRANCHISOR may reasonably require.

(2) DEVELOPER will not establish the Website without FRANCHISOR’s prior written approval.

(3) In addition to any other applicable requirements, DEVELOPER shall comply with FRANCHISOR’s standards and specifications for Websites prescribed by FRANCHISOR from time to time in writing. If required by FRANCHISOR, DEVELOPER shall establish its Website as part of FRANCHISOR’s Website and/or establish electronic links to FRANCHISOR’s Website.

(4) If DEVELOPER proposes any material revision to the Website or any of the information contained in the Website, DEVELOPER shall submit each such revision to FRANCHISOR for FRANCHISOR’S prior written approval.

#### **10. TERMINATION**

Upon the occurrence of any event of default described below, FRANCHISOR may, at its option, and without waiving its rights hereunder or any other rights available at law or in equity, including its rights to damages, terminate this Agreement and all of DEVELOPER’S rights hereunder effective immediately upon the date FRANCHISOR gives written notice of termination, upon such other date as may be set forth in such notice of termination, or in those instances enumerated below, automatically upon the occurrence of, or the lapse of the specified period following, an event of default. The occurrence of any one or more of the following events shall constitute an event of default and grounds for termination of this Agreement by FRANCHISOR:

**A.** DEVELOPER (or any shareholder, partner, member or other owner of DEVELOPER, if DEVELOPER is a corporation, partnership, limited liability company

or other business entity) is adjudged bankrupt, becomes insolvent, makes an assignment for the benefit of creditors, or is unable to pay DEVELOPER debts as they become due; or if a petition under any bankruptcy law is filed by or against DEVELOPER or any of its owners; or a receiver or other custodian is appointed for a substantial part of the assets of a Restaurant's or DEVELOPER's assets;

**B.** DEVELOPER fails to satisfy the development obligations set forth in Paragraph C of Section 3 hereof;

**C.** DEVELOPER (or any shareholder, partner, member or other owner of DEVELOPER, if DEVELOPER is a corporation, partnership, limited liability company or other business entity) makes an unauthorized transfer of this Agreement, an ownership interest in DEVELOPER, any Restaurant (or interest therein), or any Franchise Agreement (or interest therein) executed pursuant to this Agreement;

**D.** DEVELOPER (or any shareholder, partner, member or other owner of DEVELOPER, if DEVELOPER is a corporation, partnership, limited liability company or other business entity) has made any material misrepresentation or omission in an application for the development rights conferred by this Agreement; or is convicted by a trial court of or pleads no contest to a felony, or to any other crime or offense that may adversely affect the goodwill associated with the Marks, or engages in any misconduct which affects the reputation of any Shakey's Restaurant or the goodwill associated with the Marks;

**E.** DEVELOPER (or any shareholder, partner, member or other owner of DEVELOPER, if DEVELOPER is a corporation, partnership, limited liability company or other business entity) makes any unauthorized use of the Marks or unauthorized use or disclosure of the Confidential Information;

**F.** DEVELOPER fails to comply with any other provision of this Agreement, and does not correct such failure within thirty (30) days after written notice of such failure to comply is delivered to DEVELOPER;

**G.** DEVELOPER fails on three (3) or more separate occasions within any period of twelve (12) consecutive months to comply with this Agreement, whether or not such failures to comply are material or are corrected after notice thereof is delivered to DEVELOPER; or

**H.** FRANCHISOR has delivered a notice of termination of a Franchise Agreement executed pursuant to this Agreement in accordance with the terms and conditions of such Franchise Agreement, or DEVELOPER (or an Authorized Entity) has terminated a Franchise Agreement with FRANCHISOR without cause.

## **11. TRANSFER**

### **A. BY FRANCHISOR.**

This Agreement is fully transferable by FRANCHISOR and shall inure to the benefit of any transferee or other legal successor to the interests of FRANCHISOR herein, without DEVELOPER's consent or approval. In the event of any assignment or transfer by FRANCHISOR, DEVELOPER shall agree to such modifications as will facilitate such assignment or transfer; provided, however, that any such modifications shall not materially add to or change the obligations of DEVELOPER or affect the rights of DEVELOPER.

### **B. DEVELOPER MAY NOT TRANSFER WITHOUT APPROVAL OF FRANCHISOR.**

DEVELOPER understands and acknowledges that the rights and duties created by this Agreement are personal to DEVELOPER, and that FRANCHISOR has granted this Agreement to DEVELOPER in reliance upon the individual or collective character, skill, aptitude, attitude, business ability and financial capacity of DEVELOPER (or its shareholders, partners, members or other owners). Accordingly, neither this Agreement (or any interest herein), nor any part or all of the ownership of DEVELOPER, nor any Restaurant developed pursuant to this Agreement (or any interest therein), nor any Franchise Agreement executed pursuant to this Agreement may be transferred without the prior written approval of FRANCHISOR. Any such transfer without such approval shall constitute a breach hereof and convey no rights to or interest in this Agreement, DEVELOPER, such Restaurant or such Franchise Agreement. As used in this Agreement, the term "transfer" shall mean and include the voluntary, involuntary, direct or indirect assignment, sale, gift or other transfer by DEVELOPER (or any of its owners) of any interest in: (1) this Agreement; (2) any part or all of the ownership of DEVELOPER; (3) any Restaurant or any interest in any Restaurant developed pursuant to this Agreement; or (4) any Franchise Agreement granted pursuant to this Agreement or any interest therein. An assignment, sale or other transfer shall include: (1) the transfer of ownership of an ownership interest; (2) merger or consolidation, or issuance of additional securities representing an ownership interest in DEVELOPER; (3) any sale of voting securities of DEVELOPER or any security convertible to voting securities of DEVELOPER; (4) transfer of any interest in this Agreement, DEVELOPER, any franchise granted pursuant hereto, or any Restaurant developed pursuant hereto, in divorce, insolvency, corporate or partnership dissolution proceedings or otherwise by operation of law; or (5) transfer of an interest in this Agreement, any franchise granted pursuant hereto, or any Restaurant developed pursuant hereto, in the event of death of DEVELOPER or owner of DEVELOPER by will, declaration of or transfer in trust, or under the laws of intestate succession.

### **C. CONDITIONS FOR APPROVAL OF TRANSFER.**

If DEVELOPER and its owners are in full compliance with this Agreement, FRANCHISOR shall not unreasonably withhold its approval of a transfer that meets all

the applicable requirements of this Paragraph. The proposed transferee (or its owners) must be individuals of good moral character and otherwise meet FRANCHISOR's then applicable standards for Shakey's Restaurant developers. A transfer of this Agreement may only be made in conjunction with a transfer of all interests in DEVELOPER and in every Restaurant developed pursuant to this Agreement. A transfer of any Restaurant developed pursuant to this Agreement may be made only in connection with a transfer of the Franchise Agreement for such Restaurant, and a transfer of the Franchise Agreement for such Restaurant may be made only in connection with the transfer of all interests of DEVELOPER in such Restaurant (or the Authorized Entity that owns such Restaurant).

If the transfer is of this Agreement, or of a controlling interest in DEVELOPER, or is one of a series of transfers which in the aggregate constitute the transfer of this Agreement or a controlling interest in DEVELOPER, all of the following conditions must be met prior to, or concurrently with, the effective date of the transfer:

(1) the transferee must have sufficient business experience, aptitude and financial resources to perform DEVELOPER's obligations under this Agreement;

(2) DEVELOPER must pay all amounts due to FRANCHISOR or its Affiliates which are then due and unpaid;

(3) the transferee and/or its managers must have completed FRANCHISOR's training program;

(4) all obligations of DEVELOPER and/or its owners incurred in connection with this Agreement must be assumed by the transferee, and the transferee must execute and agree to be bound by this Agreement;

(5) DEVELOPER or the transferee must have paid a transfer fee in the amount of Five Thousand Dollars (\$5,000) in connection with the transfer of this Agreement and a transfer fee in an amount up to Five Thousand Dollars (\$5,000) each for the transfer of each Franchise Agreement executed hereunder. If the transfer is not consummated, Franchisor will retain Two Thousand Five Hundred Dollars (\$2,500) of the transfer fee hereunder and refund any balance;

(6) DEVELOPER and its owners must execute a general release, in form satisfactory to FRANCHISOR, of any and all claims against FRANCHISOR, its Affiliates and their respective officers, directors, employees, agents, spouses and families;

(7) FRANCHISOR must be satisfied the material terms and conditions of such transfer, that the price and terms of payment are not so burdensome as to affect adversely the future development of the Development Area and the operation of Shakey's Restaurants located therein by the transferee;

(8) if DEVELOPER finances any part of the sale price of the transferred interest, DEVELOPER and/or its owners must agree that all obligations of the transferee under or pursuant to any promissory notes, agreements or security interests in the assets

reserved by DEVELOPER and/or its owners in the assets of the Shakey's Restaurants shall be subordinate to: (a) the obligations of the transferee to pay amounts due to FRANCHISOR and its Affiliates pursuant to this Agreement and Franchise Agreements executed pursuant hereto; and (b) the collateral security interests of FRANCHISOR in the premises of the Restaurant; and

(9) DEVELOPER and all its transferring owners must execute a non-competition covenant in favor of FRANCHISOR and the transferee agreeing that neither DEVELOPER nor its owners shall, for a period of three (3) years, commencing on the effective date of the transfer: (a) have any direct or indirect interest (through a member of the immediate family of DEVELOPER or owner of DEVELOPER or otherwise) as a disclosed or beneficial owner in, or render services or give advice to, any Competitive Business located or operating within the Development Area or within a radius of three (3) miles of any Shakey's Restaurant then operating or under construction (whether owned by FRANCHISOR, its Affiliate, DEVELOPER, an Authorized Entity or a third party); or (b) directly or indirectly employ, or seek to employ, any person who is employed by FRANCHISOR or by any other developer of franchisee of FRANCHISOR, nor induce nor attempt to induce any such person to leave said employment, without prior written consent of FRANCHISOR and such person's employer.

Subparagraph (5) above shall not apply to transfers to or among owners of DEVELOPER, and Subparagraphs (7) and (8) above shall not apply to transfers by gifts, bequest or inheritance.

#### **D. DEATH OR DISABILITY OF DEVELOPER.**

Upon the death or permanent disability of DEVELOPER (or, if DEVELOPER is a corporation, partnership, limited liability company or other business entity, upon the death or permanent disability of the owner of a controlling interest in DEVELOPER), the executor, administrator, conservator, guardian or other personal representative of such person shall transfer his or her interest in this Agreement or such interest in DEVELOPER to a third party approved by FRANCHISOR (including, without limitation, transfer by bequest or inheritance). Such disposition of this Agreement or such interest in DEVELOPER (including, without limitation, transfer by bequest or inheritance) shall be completed within a reasonable time, not to exceed nine (9) months from the date of death or permanent disability, and shall be subject to all the terms and conditions applicable to transfers contained in Paragraph C of this Section. Failure to so dispose of this Agreement or such interest in DEVELOPER within said period of time shall constitute a breach of this Agreement.

#### **E. EFFECT OF CONSENT TO TRANSFER.**

FRANCHISOR's consent to a transfer of this Agreement, any Franchise Agreement entered pursuant to this Agreement, or any interest in DEVELOPER subject to the restrictions of this Section shall not constitute a waiver of any claims it may have against DEVELOPER, nor shall it be deemed a waiver of FRANCHISOR's right to

demand exact compliance with any of the terms or conditions of this Agreement by the transferee.

**F. FRANCHISOR'S RIGHT OF FIRST REFUSAL.**

If DEVELOPER or its owners shall at any time determine to sell an interest in this Agreement, or an ownership interest in DEVELOPER, or if DEVELOPER or its owners shall obtain a bona fide, executed written offer from a responsible and fully disclosed purchaser, a true and complete copy of the offer (and any proposed "side" or ancillary agreements) shall immediately be submitted to FRANCHISOR by DEVELOPER, its owners or both. FRANCHISOR shall have the right, exercisable by written notice delivered to DEVELOPER or its owners within thirty (30) days from the date of delivery of an exact copy of such offer to FRANCHISOR, to purchase such interest for the price and on the terms and conditions contained in such offer, provided that FRANCHISOR may substitute cash for any form of payment proposed in such offer, FRANCHISOR's credit shall be deemed equal to the credit of any proposed purchaser, and FRANCHISOR shall have not less than sixty (60) days to prepare for closing. FRANCHISOR shall be entitled to purchase such interest subject to all customary representations and warranties given by the seller of the assets of a business or voting stock of an incorporated business, as applicable, including, without limitation, representations and warranties as to ownership, condition and title to ownership interests and/or assets, liens and encumbrances relating to the ownership interests and/or assets, validity of contracts and liabilities of the company whose ownership interests are purchased and affecting the assets, contingent or otherwise. If FRANCHISOR does not exercise its right of first refusal, DEVELOPER or its owners may complete the sale to such purchasers pursuant to and on the exact terms of such offer, subject to FRANCHISOR's approval of the transfer, as provided in Paragraphs B and C of this Section, provided that if the sale to such purchaser is not completed within one hundred twenty (120) days after delivery of such offer to FRANCHISOR, or if there is a material change in the terms of the sale, FRANCHISOR shall have an additional right of first refusal for thirty (30) days on the same terms and conditions as are applicable to the initial right of first refusal. The right of first refusal hereinabove provided shall not apply to any inter-family transfer. For purposes of this Agreement, an "inter-family" transfer shall include a transfer to DEVELOPER's (or any of its owners') spouse or any ancestor, lineal descendant, brother, sister, spouse of a brother or sister, lineal descendant of a brother or sister, or trust for the benefit of one or more of such persons.

**12. FRANCHISOR'S RIGHTS AND OBLIGATIONS UPON TERMINATION OR EXPIRATION.**

**A. PAYMENT OF AMOUNTS OWED TO FRANCHISOR.**

DEVELOPER must pay FRANCHISOR and FRANCHISOR's Affiliates, within ten (10) days after the effective date of termination or expiration of this Agreement, all amounts owed to FRANCHISOR or its Affiliates which are then unpaid. FRANCHISOR shall retain the development fee paid in accordance with Section 5 of this Agreement.

**B. DISCONTINUANCE OF DEVELOPMENT RIGHTS.**

Upon expiration or termination of this Agreement, DEVELOPER shall have no further right to develop or open Restaurants in the Development Area. The limited exclusive rights granted DEVELOPER hereunder shall terminate at such time and FRANCHISOR shall have the right to operate or license others to operate Restaurants anywhere in the Development Area, except as otherwise provided in an effective Franchise Agreement.

**C. DISCONTINUE USE OF MARKS AND CONFIDENTIAL INFORMATION.**

Upon the termination or expiration of this Agreement, except as otherwise authorized pursuant to any Franchise Agreement between DEVELOPER and FRANCHISOR, DEVELOPER, its owners and employees will immediately cease to use, and will maintain the absolute confidentiality of, any Confidential Information disclosed to or otherwise learned or acquired by DEVELOPER and return to FRANCHISOR all copies of confidential materials which have been loaned by FRANCHISOR to DEVELOPER pursuant to this Agreement.

**D. COVENANT NOT TO COMPETE.**

Upon termination of this Agreement by FRANCHISOR in accordance with its terms or by DEVELOPER without good cause, or upon expiration of this Agreement, neither DEVELOPER nor any of its owners shall: (1) for a period of three (3) years, commencing on the effective date of termination or expiration, have any direct or indirect interest (through a member of the immediate family of DEVELOPER or an owner of DEVELOPER, or otherwise) as a disclosed or beneficial owner in, or render services or give advice to: (a) any Competitive Business located or operating within three (3) miles of any Shakey's Restaurant then operating or under construction (whether owned by FRANCHISOR, its Affiliate, DEVELOPER, an Authorized Entity or a third party); or (b) any entity which is granting franchises or licenses or establishing joint ventures for operation of Competitive Businesses; or (2) directly or indirectly employ or seek to employ any person who is employed by FRANCHISOR, its Affiliates or by any developer or other franchisee of FRANCHISOR, nor induce nor attempt to induce any such person to leave said employment, without prior written consent of FRANCHISOR and such person's employer. For purposes hereof, an indirect interest will be presumed to exist if such interest is that of the spouse or of a parent or child of DEVELOPER (or an owner of DEVELOPER). The restrictions of this Section shall not be applicable to the ownership of securities listed on an exchange or traded on the over-the-counter market that represent five percent (5%) or less of the number of shares of that class of securities issued and outstanding.

The restrictions of Subsection (1)(a) of this Section 12.D will not prohibit DEVELOPER, any of its owners or any member of DEVELOPER's (or any of its owners') immediate family from having a direct or indirect ownership interest in a

Shakey's Restaurants development agreement or franchise agreement for the development or operation of Shakey's Restaurants

**E. CONTINUING OBLIGATIONS.**

All obligations of the Parties under this Agreement which expressly or by their nature survive the expiration or termination of this Agreement shall continue in full force subsequent to the expiration or termination of this Agreement until they are fully satisfied or by their nature expire.

**13. RELATIONSHIP OF THE PARTIES.**

**A. INDEPENDENT CONTRACTORS.**

Neither this Agreement nor the dealings of the Parties pursuant to this Agreement creates any fiduciary relationship or any other relationship of trust or confidence. The Parties hereto, as between themselves, are independent contractors.

Nothing contained in this Agreement, or arising from the conduct of the Parties hereunder, is intended to make either party a general or special agent, joint venturer, partner or employee of the other for any purpose whatsoever. DEVELOPER must conspicuously identify DEVELOPER in all dealings with customers, lessors, contractors, suppliers, public officials, employees and others as the licensee of development rights for Shakey's Restaurants and place such notices of independent ownership on forms, business cards, stationery, advertising and other materials as FRANCHISOR may require from time to time.

DEVELOPER may make no express or implied agreements, warranties, guarantees or representations or incur any debt in FRANCHISOR's name or on its behalf, or represent that the relationship of the Parties hereto is anything other than that of independent contractors. FRANCHISOR will not be obligated by or have any liability under any agreements made by DEVELOPER with any third party or for any representations DEVELOPER makes to any third party. FRANCHISOR will not be obligated for any damages to any person or property directly or indirectly arising out of the operation of business pursuant to this Agreement.

**B. INDEMNIFICATION.**

DEVELOPER agrees to indemnify, defend and hold harmless FRANCHISOR, its Affiliates and their respective shareholders, directors, officers, employees, agents, attorneys, accountants, successors and assigns against, and reimburse them for, any claim, liability, obligation, actual and consequential damages or taxes asserted against or imposed on any of the above indemnified parties contrary to the provisions of this Section and any claim or liability directly or indirectly arising from DEVELOPER's business conducted in accordance with this Agreement. FRANCHISOR has the right to defend and/or settle any such matter in the manner FRANCHISOR deems appropriate, in FRANCHISOR's sole discretion, and without DEVELOPER's consent. DEVELOPER agrees to reimburse each of the above indemnified parties for all costs reasonably

incurred in defending any such matter, including, without limitation, reasonable attorneys' fees. This Section shall continue in full force and effect subsequent to the expiration or termination of this Agreement.

#### **14. DISPUTE RESOLUTION.**

##### **A. NEGOTIATION.**

The Parties agree to attempt in good faith to resolve any controversy or claim arising out of or relating to this Agreement promptly by negotiation.

The disputing party must give the other party written notice of the dispute. Within twenty (20) days after receipt of this notice, the receiving party must submit to the other a written response. The notice and response must include a statement of each party's position. The Parties will meet at a mutually acceptable time at FRANCHISOR's headquarters within thirty (30) days of the date of the notice of dispute to attempt to resolve the dispute. DEVELOPER or DEVELOPER's managing owner will represent DEVELOPER in the negotiations and FRANCHISOR will be represented by an executive or agent authorized to settle the controversy.

##### **B. FEES AND EXPENSES.**

Should any Party hereto commence any action or proceeding for the purpose of enforcing, or preventing the breach of, any provision hereof, or for damages for any alleged breach of any provision hereof, or for a declaration of such Party's rights or obligations hereunder, then the prevailing Party shall be reimbursed by the losing Party for all costs and expenses incurred in connection therewith, including, but not limited to, reasonable attorney's fees at all trial and appellate levels for the services rendered to such prevailing Party.

##### **C. GOVERNING LAW.**

Except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. Section 1051 et seq.), or other Federal law, this Agreement, the franchise and the relationship between DEVELOPER and FRANCHISOR shall be governed by and construed in accordance with the laws of the state of California; however, if this Agreement concerns a Restaurant located in another state and the laws of that state require terms other than those or in addition to those contained herein, then this Agreement shall be deemed modified so as to comply with the appropriate laws of such state, but only to the extent necessary to prevent the invalidity of this Agreement or any provision hereof, the imposition of fines or penalties, or the creation of civil or criminal liability on account thereof. Any provision of this Agreement which may be determined by competent authority to be prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of the prohibition or unenforceability without invalidating the remaining provisions of this Agreement. Any prohibition against the enforcement of any provision of this Agreement or the unenforceability of any provision of this Agreement in any jurisdiction, including the state whose law governs this Agreement, shall not invalidate the provision or render it unenforceable in any other

jurisdiction. To the extent permitted by applicable law, DEVELOPER waives any provision of law which renders any provision of this Agreement prohibited or unenforceable in any respect. Notwithstanding the foregoing, the restrictive covenants contained in Section 16 shall be construed in accordance with the laws of the states(s) where such restriction(s) is/are, to apply and the laws of such state(s) shall determine the enforceability of such covenants to be performed in such state(s).

**D. INJUNCTIVE RELIEF.**

DEVELOPER recognizes that DEVELOPER's failure to comply with the terms of this Agreement is likely to cause irreparable harm to FRANCHISOR and the System. Therefore, DEVELOPER agrees that notwithstanding provisions regarding negotiation, in the event of a breach or threatened breach of any of the terms of this Agreement by DEVELOPER, FRANCHISOR shall be entitled to injunctive relief (both preliminary and permanent) restraining that breach and/or for specific performance, without showing or proving actual damages and without posting any bond or security. Any equitable remedies sought by FRANCHISOR shall be in addition to, and not in lieu of, all remedies and rights which FRANCHISOR otherwise may have arising under applicable law or by virtue of any breach of this Agreement.

**E. LIMITATION OF CLAIMS.**

Except for payments owed by one Party to the other, and unless prohibited by applicable law, any legal action or proceeding (including mediation or arbitration) brought or instituted with respect to any dispute arising from or related to this Agreement or with respect to any breach of the terms of this Agreement must be brought or instituted within a period of two (2) years from the date of discovery of the conduct or event that is the basis of the legal action or proceeding.

**F. LIMITATIONS ON DAMAGES.**

EXCEPT WITH RESPECT TO OBLIGATIONS REGARDING THE CONFIDENTIAL INFORMATION SET FORTH IN SECTION 6 AND USE OF THE MARKS AS SET FORTH IN SECTION 8, EACH PARTY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO OR CLAIM FOR ANY PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER. IN NO EVENT SHALL THE LIABILITY OF FRANCHISOR OR ITS AFFILIATES FOR ANY REASON AND UPON ANY CAUSE OF ACTION WHATSOEVER BE GREATER THAN THE AMOUNT(S) THEN PREVIOUSLY PAID BY DEVELOPER TO FRANCHISOR OR ITS AFFILIATE. FRANCHISOR OR ITS AFFILIATE SHALL HAVE NO LIABILITY FOR ANY DIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE OR INCIDENTAL DAMAGE, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR OTHER ECONOMIC LOSS (WHETHER ARISING FROM BREACH OF CONTRACT, TORT OR OTHERWISE) EVEN IF FRANCHISOR OR ITS AFFILIATE HAS BEEN APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING. CLAIMS MUST BE MADE BY INITIATING THE NEGOTIATION PROCESS SET FORTH IN SECTION 14.A. THE PARTIES WAIVE

TO THE FULLEST EXTENT PERMITTED BY LAW THE RIGHT TO BRING, OR BE A CLASS MEMBER IN ANY CLASS ACTION, OR SUITS AND THE RIGHT TO TRIAL BY JURY.

**G. VENUE.**

Any and all litigation between DEVELOPER and FRANCHISOR or any Affiliates of either shall be brought in a court of competent subject matter jurisdiction (state or federal) within the county or district in which FRANCHISOR then maintains its principal offices, and DEVELOPER agrees that such courts shall have exclusive jurisdiction and venue over such litigation. FRANCHISOR may, however, elect to institute litigation in the county or district where DEVELOPER resides or in which the Development Area is located or where DEVELOPER then maintains its principal offices.

**H. CONTROL DURING CRISIS SITUATION.**

If an event occurs within the System that has or reasonably may cause harm or injury to customers or employees (*i.e.*, food spoilage/poisoning, food tampering/sabotage, slip and fall injuries, natural disasters, robberies, shootings, etc.) or may damage the Marks, the System or the reputation of FRANCHISOR (collectively “Crisis Situation”), DEVELOPER shall: (1) immediately contact appropriate emergency care providers to assist DEVELOPER in curing the harm or injury; and (2) immediately inform FRANCHISOR by telephone of the Crisis Situation. DEVELOPER shall refrain from making any internal or external announcements (*i.e.*, no communication with the news media) regarding the Crisis Situation (unless otherwise directed by FRANCHISOR or public health officials).

To the extent FRANCHISOR deems appropriate, in its sole and absolute discretion, FRANCHISOR may control the manner in which the Crisis Situation is handled by the Parties, including, without limitation, conducting all communication with the news media, providing care for injured persons and/or temporarily closing one or more Shakey’s Restaurants. The Parties acknowledge that, in directing the management of any Crisis Situation, FRANCHISOR may engage the services of attorneys, experts, doctors, testing laboratories, public relations firms and those other professionals as it deems appropriate. DEVELOPER and DEVELOPER’s employees shall cooperate fully with FRANCHISOR in its efforts and activities in this regard and shall be bound by all further Crisis Situation procedures developed by FRANCHISOR from time to time hereafter. The indemnification under Section 13.B shall include all losses and expenses that may result from FRANCHISOR’s exercise of its management rights granted in this Section 14.H.

**15. MISCELLANEOUS.**

**A. SEVERABILITY/SUBSTITUTION OF VALID PROVISIONS.**

Every part of this Agreement is severable. If for any reason any part of this Agreement is held to be invalid, that determination shall not impair other parts of this Agreement that remain otherwise intelligible. If any covenant in this Agreement

restricting competitive activity is deemed unenforceable by virtue of its scope in terms of geographical area, type of business activity prohibited and/or length of time, but could be enforceable by reducing any part or all thereof, then that covenant shall be enforced to the fullest extent permissible under applicable laws and public policies.

If any applicable law or rule of any jurisdiction requires either a greater prior notice of the termination of or refusal to enter into a successor franchise, or the taking of some other action not required under this Agreement, the prior notice and/or other action required by such law or rule shall be substituted for the comparable provisions of this Agreement. If any provision of this Agreement or any specification, standard or operating procedure FRANCHISOR prescribes is invalid or unenforceable under applicable law, FRANCHISOR shall have the right, in its sole discretion, to modify the invalid or unenforceable provision, specification, standard or operating procedure to the extent required to be valid and enforceable.

#### **B. WAIVER OF OBLIGATIONS.**

Either party may by written instrument unilaterally waive or reduce any obligation of the other under this Agreement. Any waiver FRANCHISOR grants will not prejudice any other rights FRANCHISOR has, will be subject to FRANCHISOR's continuing review and may be revoked, in FRANCHISOR's sole discretion, at any time and for any reason, effective upon delivery of ten (10) days' prior written notice. Neither party shall be deemed to have waived any right, power or option reserved by this Agreement: (1) by virtue of any custom or practice of the Parties at variance with the terms of this Agreement; (2) by any failure, refusal or neglect of either party to exercise any right under this Agreement or by FRANCHISOR to insist upon exact compliance by DEVELOPER with DEVELOPER's obligations under this Agreement; (3) by any waiver, forbearance, delay, failure or omission by FRANCHISOR to exercise any right, power or option, whether of the same, similar or different nature, regarding other Shakey's Restaurants; or (4) by FRANCHISOR's acceptance of any payments due from DEVELOPER after any breach of this Agreement.

#### **C. EXERCISE OF RIGHTS OF PARTIES.**

The Parties' rights under this Agreement are cumulative. No exercise or enforcement by the Parties of any right or remedy under this Agreement shall preclude the exercise or enforcement by either party of any right or remedy under this Agreement, which either party is entitled to enforce by law.

#### **D. BINDING EFFECT.**

This Agreement is binding upon the Parties and their respective executors, administrators, heirs, assigns and successors in interest and shall not be modified except by written agreement signed by both parties.

## **E. CONSTRUCTION.**

The preambles, acknowledgments, personal guarantees and exhibits to this Agreement, are a part of this Agreement, which constitutes the entire agreement of the Parties. There are no other oral or written agreements, understandings, representations or statements between the Parties relating to the subject matter of this Agreement, other than the Disclosure Document and Franchise Agreement, that either party may or does rely upon or that will have any force or effect. Nothing in this Agreement is intended or shall be deemed to confer any rights or remedies upon any person or legal entity not a party to this Agreement.

Except where this Agreement expressly obligates FRANCHISOR to reasonably approve or consent (or not to unreasonably withhold FRANCHISOR's approval or consent) to any action or request by DEVELOPER, FRANCHISOR has the absolute right for any reason to refuse any request by DEVELOPER or to withhold FRANCHISOR's approval of or consent to any action by DEVELOPER.

The headings of this Agreement's sections and subsections are for convenience only and do not limit or construe their contents. The terms "DEVELOPER" and "DEVELOPER's" are applicable to one or more persons, a corporation, a limited liability company or a partnership and its owners, as the case may be. If two or more persons are at any time the franchisee, whether or not as partners or joint venturers or otherwise, their obligations and liabilities to FRANCHISOR shall be joint and several. References to an interest in an entity shall mean any share or percentage whatsoever of the equity or voting control of such entity. The term "attorneys' fees" shall include, without limitation, reasonable legal fees, whether incurred prior to, in preparation for or in contemplation of the filing of any written demand or claim, action, hearing or proceeding to enforce the obligations of this Agreement, at all levels, whether for arbitration or litigation.

This Agreement shall be executed in multiple copies, each of which shall be deemed an original and all of which together shall be deemed to be one and the same instrument. Time is of the essence in this Agreement.

The Parties have negotiated the terms of this Agreement and both Parties agree that neither party shall claim the existence of any implied covenant of good faith and fair dealing in contravention of, or as a limitation of any term of this Agreement.

## **F. ENTIRE AGREEMENT.**

This Agreement, its exhibits and the documents referred to herein shall be construed together and constitute the entire, full and complete agreement between FRANCHISOR and DEVELOPER concerning the subject matter hereof, and shall supersede all prior agreements. No other representation, oral or otherwise, has induced DEVELOPER to execute this Agreement, and there are no representations, inducements, promises or agreements, oral or otherwise, between the parties that are of any force or effect with respect to the matters set forth in or contemplated by this Agreement or otherwise. Nothing in this or any related agreement is intended to disclaim the

representations in the franchise Disclosure Document delivered by FRANCHISOR to DEVELOPER. No amendment, change or variance from this Agreement shall be binding on either party unless executed in writing by both parties.

**16. NOTICES AND PAYMENTS.**

All notices, requests and reports permitted or required to be delivered by this Agreement shall be deemed delivered (even if delivery is refused): (a) at the time delivered by hand to the recipient party (or to an officer, director, manager or partner of the recipient party); (b) on the same date of the transmission by facsimile, telegraph or other reasonably reliable electronic communication system; (c) one (1) business day after being placed in the hands of a commercial courier service for guaranteed overnight delivery or (d) four (4) business days after placement in the United States Mail by Registered or Certified Mail, Return Receipt Requested, postage prepaid and addressed to the party to be notified at its most current principal business address of which the notifying party has been notified in writing. All payments and reports required by this Agreement shall be sent to FRANCHISOR at the address identified in this Agreement unless and until a different address has been designated by appropriate written notice to the other part.

IN WITNESS WHEREOF the Parties hereto have executed, sealed, and delivered this Agreement in two (2) counterparts on the day and year first above written.

**SHAKEY’S USA, INC.**  
**a Delaware corporation**

**DEVELOPER**

If a corporation, partnership, limited liability company or other business entity:

\_\_\_\_\_  
(Name of Entity)

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

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

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

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

Title:\_\_\_\_\_

Title:\_\_\_\_\_

If Individuals:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

**EXHIBIT A**

TO THE AREA DEVELOPMENT AGREEMENT  
BY AND BETWEEN SHAKEY'S USA, INC.  
AND \_\_\_\_\_  
DATED \_\_\_\_\_, \_\_\_\_\_

The Development Area referred to in Section 2 of the captioned Agreement shall be as follows and as further illustrated on the attached map:

**SHAKEY'S USA, INC.**

\_\_\_\_\_  
(Print Name)

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT B**

TO THE AREA DEVELOPMENT AGREEMENT  
BY AND BETWEEN SHAKEY’S USA, INC.  
AND \_\_\_\_\_  
DATED \_\_\_\_\_, \_\_\_\_\_

1. The development fee referred to in Section 5 of this Agreement shall be \_\_\_\_\_ Thousand Dollars (\$\_\_\_\_\_).
  
2. DEVELOPER agrees to obtain site approval for each Shakey’s Restaurant to be developed hereunder, as detailed in Section 4(a) and to cause such Restaurants to be open and in operation within the Development Area on or before the below specified dates (hereinafter the “compliance dates”):

**DEVELOPMENT SCHEDULE**

RESTAURANT NUMBER	RESTAURANT OPENING COMPLIANCE DATE	CUMULATIVE NUMBER OF RESTAURANTS REQUIRED ON EACH COMPLIANCE DATE (“Development Quota”)
First	_____, _____	1- _____
Second	_____, _____	2- _____
Third	_____, _____	3- _____

3. DEVELOPER acknowledges that its timely obtaining of site approval, construction and opening of Restaurants as specified herein are of material importance to Shakey’s. Failure by DEVELOPER to adhere to the Development Schedule shall constitute a default under this Agreement as provided in Section 10 hereof. TIME IS OF THE ESSENCE.

**SHAKEY’S USA, INC.**

\_\_\_\_\_  
(Print Name)

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT C**

TO THE AREA DEVELOPMENT AGREEMENT  
BY AND BETWEEN SHAKEY'S USA, INC.  
AND \_\_\_\_\_  
DATED \_\_\_\_\_, \_\_\_\_\_

Attached hereto is the current form of Franchise Agreement used by FRANCHISOR in the offering and granting of franchises for the ownership and operation of Shakey's Restaurants pursuant to the Area Development Agreement.

**EXHIBIT D**

TO THE AREA DEVELOPMENT AGREEMENT  
BY AND BETWEEN SHAKEY'S USA, INC.  
AND \_\_\_\_\_  
DATED \_\_\_\_\_, \_\_\_\_\_

The Continuity Group as defined and referred to in Section 2 of the captioned Agreement is comprised of the following individuals:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SHAKEY'S USA, INC.**

\_\_\_\_\_  
(Print Name)

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## EXHIBIT E

### TO THE AREA DEVELOPMENT AGREEMENT CONTINUING PERSONAL GUARANTY

In consideration of, and as an inducement to, the execution of the Shakey's USA, Inc. Area Development Agreement dated as of \_\_\_\_\_, \_\_\_\_\_ (the "Area Development Agreement") by and between Shakey's USA, Inc., a Delaware corporation ("Franchisor") and \_\_\_\_\_ ("Developer"), each of the undersigned owners of an interest in Developer ("Guarantors") hereby personally and unconditionally agree as follows:

1. The Guarantors unconditionally endorse, guarantee and promise, to and for the benefit of Franchisor, that they shall promptly, fully and faithfully perform, observe, and discharge all of the obligations arising from or in connection with the Area Development Agreement and that Guarantors will be bound by all of the terms of the Area Development Agreement. Guarantors' obligations are joint and several. Guarantors acknowledge receipt and review of the Area Development Agreement.

2. Guarantors each waive the benefit of any statute of limitations affecting Guarantors' liability under this Guaranty.

3. The Guaranty is a continuing Guaranty of the obligations set forth in the Area Development Agreement including any and all such obligations which are renewed, extended, modified or restructured from time to time. The provisions of the Area Development Agreement may be changed by agreement between Franchisor and Developer at any time, or by course of conduct, without the consent of and without notice to Guarantors. This Guaranty shall guarantee the performance of the Area Development Agreement. Sale or transfer of the Area Development Agreement (as permitted by the Area Development Agreement) shall not affect this Guaranty.

4. This Guaranty shall not be affected by Franchisor's failure or delay to enforce any of its rights.

5. Guarantors agree that they are each directly and primarily liable to Franchisor and that their obligations hereunder are independent of the obligations under the Area Development Agreement. If Developer defaults under the Area Development Agreement, Franchisor can proceed immediately against Guarantors or Developer, or both, any rights that it has under the Area Development Agreement, or pursuant to applicable laws. If the Area Development Agreement terminates and Franchisor has any rights it can enforce against Developer after termination, Franchisor can enforce those rights against Guarantors without giving previous notice to Developer or Guarantors, or without making any demand on either of them.

6. Guarantors each waive the right to require Franchisor to (a) proceed against any person, including Developer or any other guarantor; (b) proceed against or exhaust any security that Franchisor holds from any person, including Developer or any other guarantor; (c) give notice of the terms, time and place of any public or private sale

of personal property security held from the Developer or any other person, or otherwise comply with the provisions of Section 9-504 of the Uniform Commercial Code; or (d) pursue any other remedy in Franchisor's power. Guarantors each waive any defense based upon or arising by reason of (1) any disability or any other defense of Developer or any other person; (2) the cessation or limitation from any cause whatsoever, other than payment in full, of the indebtedness or obligations of Developer or any other person; (3) any lack of authority of any officer, director, partner, agent or any other person acting or purporting to act on behalf of Developer which is a corporation, partnership or other type of entity, or any defect in the formation of such Developer; (4) the application by Developer of the proceeds of any indebtedness or obligations for purposes other than the purposes represented by Developer to Franchisor or intended or understood by Franchisor or Guarantor; (5) any act or omission by Franchisor which directly or indirectly results in or aids in the discharge of Developer or any indebtedness or obligations thereof by operation of law or otherwise; (6) any modification of the indebtedness or the obligations of Developer, in any form whatsoever, including without limitation the renewal, extension, acceleration or other change in time for payment of such indebtedness or obligations, or other change in the terms of such indebtedness or obligations or any part thereof, including increase or decrease of the rate of interest thereon. Until all of Developer's obligations to Franchisor have been discharged in full, Guarantors have no right to subrogation against Developer, and Guarantors each waive any defense Guarantor may have based upon any election of remedies of Franchisor which destroys Guarantors' subrogation rights or Guarantors' rights to proceed against Developer for reimbursement, including without limitation any loss of rights Guarantors may suffer by reason of any rights, powers or remedies of Developer in connection with any anti-deficiency laws or any other laws limiting, qualifying or discharging Developer's obligations. Until all of Developer's obligations to Franchisor shall have been paid in full, Guarantors each further waive any right to enforce any remedy which Franchisor now has or may hereafter have against Developer or any other person, and waives any benefit, or any right to participate in any security whatsoever now or hereafter held by Franchisor. Guarantors each waive any defense based on a destruction of its rights of subrogation by Franchisor and consents to any action by Franchisor which destroys its rights of subrogation. Guarantors each waive its right to enforce any remedies that Franchisor now has, or later may have, against Developer. Guarantor waives any right to participate in any security now or later held by Franchisor. Guarantors each waive all presentments, demands for performance, notices of non-performance, protests, notices of protest, notice of dishonor, and notices of acceptance of this Guaranty, and waive all notices of the existence, creation, or incurring of new or additional obligations. Guarantors each warrant and agree that each of the waivers set forth above are made by Guarantor with full knowledge of their significance and consequences, and under the circumstances, the waivers are reasonable and not contrary to public policy or law. If any of said waivers are determined to be contrary to any applicable law or public policy, such waivers shall be effective only to the extent permitted by law.

7. Guarantors each represent and warrant to Franchisor that:

a. Guarantors have not and shall not, without the prior written consent of Franchisor, sell, lease, assign, encumber, hypothecate, transfer or otherwise

dispose of all or a substantial part of their respective assets other than in the ordinary course of business;

b. Franchisor has made no representation to Guarantors as to the credit worthiness of Developer; and

c. Guarantors have established adequate means of obtaining from Developer on a continuing basis financial and other information pertaining to Developer's financial condition. Guarantors agree to keep adequately informed from such means of any facts, events or circumstances which might in any way affect Guarantors' risks hereunder, and Guarantors further agree that Franchisor shall have no obligation to disclose to Guarantors any information or material about Developer which is acquired by Franchisor in any manner.

8. Guarantors each acknowledge that Franchisor has the right to sell, assign, transfer, negotiate or grant participation in all or any part of, or any interest in, any of Developer's obligations to Franchisor and any obligations with respect thereto, including this Guaranty. In connection therewith, Franchisor may disclose all documents and information which Franchisor now has or hereafter acquires relating to Guarantors and this Guaranty, whether furnished by Developer, Guarantors or otherwise. Guarantors further agree that Franchisor may disclose such documents and information to Developer.

9. If Franchisor disposes of its interest in the Area Development Agreement, Franchisor as used in this Guaranty, shall mean Franchisor's successors and assigns.

10. If Franchisor is required to enforce Guarantors' obligations by legal proceedings, the prevailing party shall be entitled to receive from the other all costs incurred, including, without limitation, reasonable attorneys' fees, at all trial and appellate levels. This Guaranty shall be governed by and construed in accordance with the laws of the state of California. All litigation under this Guaranty shall be brought in a court of competent jurisdiction within the county or district where Franchisor then maintains its principal offices. Franchisor may however, elect to institute litigation in the county or district where the Restaurant (as defined in the Area Development Agreement) is located or where any of the undersigned reside.

11. Guarantors may not voluntarily assign their obligations hereunder without the prior written consent of Franchisor. If Guarantors assign their obligations as permitted hereunder, Guarantors' obligations under this Guaranty shall be binding on Guarantors' successors and assigns.

12. Whenever the context hereof shall so require, the singular shall include the plural, the male gender shall include the female gender and the neuter, and visa versa.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned have executed this Continuing Personal Guaranty as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

PERCENTAGE OF OWNERSHIP  
INTERESTS IN DEVELOPER

GUARANTOR(S)

\_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

## EXHIBIT F

### CONFIDENTIALITY AGREEMENT AND COVENANTS NOT TO COMPETE

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_, 20\_\_\_\_, between Shakey's USA, Inc., a Delaware corporation ("Franchisor"), \_\_\_\_\_ ("Developer"), and \_\_\_\_\_ ("Covenantor").

#### RECITALS

WHEREAS, Franchisor licenses the use of a distinctive system (the "System") for the development and operation of restaurants featuring pizza, chicken, salads, potatoes, pastas and beverages, that operate under the name and mark "Shakey's" ("Restaurants"), and

WHEREAS, the System includes, but is not limited to, certain trade names, service marks, trademarks, symbols, logos, emblems and indicia of origin, including, but not limited to, the mark "Shakey's" and such other trade names, service marks, trademarks, symbols, logos, emblems and indicia of origin ("Marks"), as Franchisor may develop in the future to identify for the public the source of services and products marketed under such Marks and under the System using Franchisor's Confidential Information; and

WHEREAS, the Marks and Confidential Information provide economic advantages to Franchisor, and the Confidential Information are not generally known to, and are not readily ascertainable by proper means by, Franchisor's competitors who could obtain economic value from knowledge and use of the Confidential Information; and

WHEREAS, Franchisor has taken and intends to take all reasonable steps to maintain the confidentiality and secrecy of the Confidential Information; and

WHEREAS, Franchisor has granted Developer the right to develop Restaurants using the System for the period defined in the Area Development Agreement dated \_\_\_\_\_, 20\_\_\_\_ ("Area Agreement"), between Franchisor and Developer; and

WHEREAS, it will be necessary for certain employees agents, independent contractors, officers, directors and holders of ownership interests in Developer, or any entity having an interest in Developer of which Covenantor is one, to have access to and to use some or all of the Confidential Information in the management and operation of Developer's business using the System; and

WHEREAS, Covenantor wishes to remain, or wishes to become, employed by or associated with Developer; and

WHEREAS, Covenantor wishes and needs to receive and use the Confidential Information in the course of his employment or association in order to effectively perform his services for Franchisee; and

WHEREAS, Covenantor acknowledges that receipt of and the right to use the Confidential Information constitutes independent valuable consideration for the representations, promises and covenants made by Covenantor herein.

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties agree as follows:

### Confidentiality Agreement

1. Franchisor and/or Developer shall disclose to Covenantor some or all of the Confidential Information and Confidential Information as defined in Section 2. of the Area Development Agreement 3. All information and materials, including, without limitation, any manuals, drawings, specifications, techniques and compilations of data which Franchisor provides to Developer and/or Covenantor shall be deemed Confidential Information for the purposes of this Agreement.

2. Covenantor shall receive the Confidential Information in confidence and shall, at all times, maintain same in confidence, and use same only in the course of his employment by or association with Developer and then only in connection with the development and/or operation by Developer of Restaurants using the System for so long as Developer is licensed by Franchisor to use the System.

3. Covenantor shall not at any time make copies of any documents or compilations containing some or all of the Confidential Information without Franchisor's express written permission.

4. Covenantor shall not at any time disclose or permit the disclosure of the Confidential Information except to other employees of Developer and only to the limited extent necessary to train or assist other employees of Developer in the development or operation of Restaurants using the System.

5. Covenantor shall surrender any material containing some or all of the Confidential Information to Developer or Franchisor, upon request, or upon termination of employment by or association with Developer, or upon conclusion of the use for which such information or material may have been furnished to Covenantor.

6. Covenantor shall not at any time, directly or indirectly, do any act or omit to do any act that would or would likely be injurious or prejudicial to the goodwill associated with the Confidential Information and the System.

### Covenants Not to Compete

1. In order to protect the goodwill and unique qualities of the System and the confidentiality and value of the Confidential Information, and in consideration for the disclosure to Covenantor of the Confidential Information, Covenantor further agrees and covenants as follows:

a. Not to employ, or seek to employ, any person who is at the time (or has been within the preceding six (6) months) employed by Franchisor, or any of its affiliates, or any franchisee or developer of Franchisor, or otherwise directly or indirectly induce such person to leave that person's employment except as may occur in connection with Developer's employment of such person if permitted under the Area Development Agreement.

b. Not to directly or indirectly, for himself or through, on behalf of, or in conjunction with any person, partnership, limited liability company or corporation, without

the prior written consent of Franchisor, own, maintain, operate, engage in or have any financial or beneficial interest in (including any interest in corporations, partnerships, limited liability companies, trusts, unincorporated associations or joint ventures), advise, assist or make loans to, any Competitive Business, as that term is defined in Section 2., of the Area Development Agreement.

2. In further consideration for the disclosure to Covenantor of the Confidential Information and to protect the uniqueness of the System, Covenantor agrees and covenants that for three (3) years following the earlier of the expiration, termination or transfer of all of Developer's interest in the Area Development Agreement or the termination of his employment by or association with Developer, for whatever reason, Covenantor will not without the prior written consent of Franchisor:

a. Divert, or attempt to divert, directly or indirectly, any business, business opportunity or customer of a Restaurant to any competitor.

b. Employ, or seek to employ, any person who is at the time (or has been within the preceding six (6) months) employed by Franchisor, or any of its affiliates, or any franchisee or developer of Franchisor, or otherwise directly or indirectly induce such persons to leave that person's employment.

c. Starting on the effective date of the termination, non-renewal or transfer, Covenantor will not directly or indirectly (including, without limitation, through Covenantor's Immediate Family) own any legal or beneficial interest in, or render services or give advice to: (i) any Competitive Business (as defined in Section 2., of the Area Development Agreement) located in the Development Area, as defined in Exhibit A of the Area Development Agreement; (ii) any Competitive Business located within a three (3) mile radius of any other Shakey's Restaurant then operating or under construction; or (iii) any entity granting franchises, licenses or other interests to others to operate any Competitive Business. The above restrictions do not apply to (a) owning or operating Shakey's Restaurants under franchise agreements with Shakey's; or (b) owning shares of a class of securities listed on a stock exchange or traded on the over-the-counter market and that represent less than five percent (5%) of that class of securities.

### Miscellaneous

1. Developer shall make all commercially reasonable efforts to ensure that Covenantor acts as required by this Agreement.

2. Covenantor agrees that in the event of a breach of this Agreement, Franchisor would be irreparably injured and be without an adequate remedy at law. Therefore, in the event of such a breach, or threatened or attempted breach of any of the provisions hereof, Franchisor shall be entitled to enforce the provisions of this Agreement and shall be entitled, in addition to any other remedies which are made available to it at law or in equity, including the right to terminate the Franchise Agreement, to a temporary and/or permanent injunction and a decree for the specific performance of the terms of this Agreement, without the necessity of showing actual or threatened harm and without being required to furnish a bond or other security.

3. Covenantor agrees to pay all expenses (including court costs and reasonable attorneys' fees) incurred by Franchisor and Developer in enforcing this Agreement.

4. Any failure by Franchisor or Developer to object to or take action with respect to any breach of any provision of this Agreement by Covenantor shall not operate or be construed as a waiver of or consent to that breach or any subsequent breach by Covenantor.

**5. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE WHERE THE DEVELOPER IS LOCATED. COVENANTOR HEREBY IRREVOCABLY SUBMITS HIMSELF OR HERSELF TO THE JURISDICTION OF THE STATE COURTS OF SAID STATE AND THE FEDERAL DISTRICT COURT FOR THE DISTRICT WHERE THE DEVELOPER IS LOCATED. COVENANTOR HEREBY WAIVES ALL QUESTIONS OF PERSONAL JURISDICTION OR VENUE FOR THE PURPOSE OF CARRYING OUT THIS PROVISION. COVENANTOR HEREBY AGREES THAT SERVICE OF PROCESS MAY BE MADE UPON HIM OR HER IN ANY PROCEEDING RELATING TO OR ARISING UNDER THIS AGREEMENT OR THE RELATIONSHIP CREATED BY THIS AGREEMENT BY ANY MEANS ALLOWED BY THE LAWS OF SAID STATE OR FEDERAL LAW. COVENANTOR FURTHER AGREES THAT VENUE FOR ANY PROCEEDING RELATING TO OR ARISING OUT OF THIS AGREEMENT SHALL BE THE COUNTY OR POLITICAL SUBDIVISION WHERE THE DEVELOPER IS LOCATED; HOWEVER, WITH RESPECT TO ANY ACTION WHICH INCLUDES INJUNCTIVE RELIEF OR OTHER EXTRAORDINARY RELIEF, FRANCHISOR OR DEVELOPER MAY BRING SUCH ACTION IN ANY COURT IN ANY STATE WHICH HAS JURISDICTION.**

6. The parties acknowledge and agree that each of the covenants contained herein are reasonable limitations as to time, geographical area, and scope of activity to be restrained and do not impose a greater restraint than is necessary to protect the goodwill or other business interests of Franchisor or Developer. The parties agree that each of the foregoing covenants shall be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant in this Agreement is held unreasonable or unenforceable by a court or agency having valid jurisdiction in any unappealed final decision to which Franchisor is a party, Covenantor expressly agrees to be bound by any lesser covenant subsumed within the terms of such covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated in and made a part of this Agreement.

7. This Agreement contains the entire agreement of the parties regarding the subject matter hereof. This Agreement may be modified only by a duly authorized writing executed by all parties.

8. All notices and demands required to be given hereunder shall be in writing and shall be sent by personal delivery, expedited delivery service, certified or registered mail, return receipt requested, first-class postage prepaid, facsimile, telegram or telex (provided that the sender confirms the facsimile, telegram or telex by sending an original confirmation copy by certified or registered mail or expedited delivery service within three (3) business days after transmission), to the respective parties at the following addresses unless and until a different address has been designated by written notice to the other parties.

If directed to Franchisor, the notice shall be addressed to:

Shakey's USA, Inc.  
2200 West Valley Boulevard  
Alhambra California 91803

If directed to Franchisee, the notice shall be addressed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

If directed to Covenantor, the notice shall be addressed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

Any notices sent by personal delivery shall be deemed given upon receipt. Any notices given by telex or facsimile shall be deemed given upon transmission, provided confirmation is made as provided above. Any notice sent by expedited delivery service or registered or certified mail shall be deemed given the earlier of actual receipt or three (3) business days after the time of mailing. Any change in the foregoing addresses shall be effected by giving fifteen (15) days written notice of such change to the other parties. Business day for the purpose of this Agreement excludes Saturdays Sundays and national holidays on which federally chartered banks are authorized to close.

9. The rights and remedies of Franchisor under this Agreement are fully assignable and transferable and shall inure to the benefit of its respective affiliates, successors and assigns. The respective obligations of Developer and Covenantor hereunder may not be assigned by Developer or Covenantor, without the prior written consent of Franchisor.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned have entered into this Agreement as witnessed by their signatures below.

**FRANCHISOR:**  
**SHAKEY'S USA, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**DEVELOPER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**COVENANTOR:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Exhibit "D"**

**Table of Contents of Confidential Operating Manual**

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The manual contains 470 pages.

**Exhibit "E"**

**State Disclosure Addenda and Agreement Riders**

**ADDENDUM  
TO FRANCHISE DISCLOSURE DOCUMENT FOR  
SHAKEY'S USA, INC.  
STATE OF CALIFORNIA**

The following paragraphs are added to the Disclosure Document:

**The registration of this franchise offering by the California Department of Financial Protection and Innovation does not constitute approval, recommendation, or endorsement by the commissioner.**

OUR WEBSITE [www.shakeys.com](http://www.shakeys.com), HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEB SITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION at [www.dfpi.ca.gov](http://www.dfpi.ca.gov).

THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE DISCLOSURE DOCUMENT.

The following is added to the information required at Item 3.C. of the Disclosure Document pursuant to the regulations promulgated under the California Franchise Investment Law:

Neither the franchisor nor any person in Item 2 of the disclosure document is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities Exchange Act of 1934, 15 U.S.C.A. 78a et seq., suspending or expelling these persons from membership in this association or exchange.

The following paragraphs are added at the end of Item 17 of the Disclosure Document pursuant to regulations promulgated under the California Franchise Investment Law:

California Law Regarding Termination and Non-renewal. California Business and Professions Code Sections 20000 through 20043 provide rights to the franchisee concerning transfer, termination or non-renewal of a franchise. If the franchise agreement contains a provision that is inconsistent with the law, the law will control.

Termination Upon Bankruptcy. The franchise agreement provides for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. Sec. 101 et seq.).

Post-Termination Non-competition Covenants. The franchise agreement contains a covenant not to compete which extends beyond the termination of the franchise. This provision may not be enforceable under California law.

Liquidated Damages. The Franchise Agreement contains a liquidated damages clause. Under California Civil Code 1671, certain liquidated damages clauses are unenforceable.

Governing Law. The Franchise Agreement requires application of the laws of the State of California. This provision may not be enforceable under California Law.

Arbitration. The Franchise Agreement requires binding arbitration. The arbitration will occur in California with the costs being borne by the losing party. Prospective franchisees are encouraged to consult private legal counsel to determine the applicability of California and federal laws (such as Business and Professions Code Section 20040.5, Code of Civil Procedure Section 1281, and the Federal Arbitration Act) to any provisions of a franchise agreement restricting venue to a forum outside the State of California.

Negotiated Terms. Copies of any negotiated terms we disclose to you in this disclosure document or in an appendix to this disclosure document are available upon written request directed to: Sonia Barajas-Najera at 2200 West Valley Boulevard, Alhambra, California 91803 (626) 576-0616.

SECTION 31125 OF THE FRANCHISE INVESTMENT LAW REQUIRES US TO GIVE TO YOU A DISCLOSURE DOCUMENT APPROVED BY THE COMMISSIONER OF DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION BEFORE WE ASK YOU TO CONSIDER A MATERIAL MODIFICATION OF YOUR FRANCHISE AGREEMENT.

YOU MUST SIGN A GENERAL RELEASE IF YOU RENEW OR TRANSFER YOUR FRANCHISE. CALIFORNIA CORPORATIONS CODE SECTION 31512 VOIDS A WAIVER OF YOUR RIGHTS UNDER THE FRANCHISE INVESTMENT LAW (CALIFORNIA CORPORATIONS CODE SECTIONS 31000 THROUGH 31505). BUSINESS AND PROFESSIONS CODE SECTION 20010 VOIDS A WAIVER OF YOUR RIGHTS UNDER THE FRANCHISE RELATIONS ACT (BUSINESS AND PROFESSIONS CODE SECTIONS 20000 THROUGH 20043).

No statement, questionnaire, or acknowledgment 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 in connection with the franchise.

**ADDENDUM TO SHAKEY'S USA, INC.  
FRANCHISE DISCLOSURE DOCUMENT  
INFORMATION REQUIRED BY  
THE STATE OF HAWAII**

THESE FRANCHISES WILL BE/HAVE BEEN FILED UNDER THE FRANCHISE INVESTMENT LAW OF THE STATE OF HAWAII. FILING DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS OR A FINDING BY THE DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS THAT THE INFORMATION PROVIDED HEREIN IS TRUE, COMPLETE AND NOT MISLEADING.

THE HAWAII FRANCHISE INVESTMENT LAW MAKES IT UNLAWFUL TO OFFER OR SELL ANY FRANCHISE IN THIS STATE WITHOUT FIRST PROVIDING TO THE PROSPECTIVE FRANCHISEE, OR SUB-FRANCHISOR, AT LEAST SEVEN DAYS PRIOR TO THE EXECUTION BY THE PROSPECTIVE FRANCHISEE, OF ANY BINDING FRANCHISE OR OTHER AGREEMENT, OR AT LEAST SEVEN DAYS PRIOR TO THE PAYMENT OF ANY CONSIDERATION BY THE FRANCHISEE, OR SUB-FRANCHISOR, WHICHEVER OCCURS FIRST, A COPY OF THIS DISCLOSURE DOCUMENT TOGETHER WITH A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE.

THIS FRANCHISE DISCLOSURE DOCUMENT CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE FRANCHISE AGREEMENT. THE CONTRACT OR AGREEMENT SHOULD BE REFERRED TO FOR A STATEMENT OF ALL RIGHTS, CONDITIONS, RESTRICTIONS AND OBLIGATIONS OF BOTH THE FRANCHISOR AND THE FRANCHISEE.

Registered agent in the state authorized to receive service of process:

Commissioner of Securities  
Department of Commerce and Consumer Affairs  
Business Registration Division  
King Kalakaua Building  
335 Merchant Street, Rm. 203  
Honolulu, Hawaii 96813

**IN RECOGNITION OF THE REQUIREMENTS OF THE HAWAII FRANCHISE INVESTMENT LAW, HAWAII REV. STAT. §§ 482-E-1, *ET SEQ.* THE FRANCHISE DISCLOSURE DOCUMENT FOR THE OFFER OF SHAKEY'S PIZZA FRANCHISES FOR USE IN HAWAII SHALL BE AMENDED AS FOLLOWS:**

1. This registration is currently effective in: None

There are no states which have refused, by order or otherwise, to register these franchises.

There are no states which have revoked or suspended the right to offer these franchises.

No proposed registration has been withdrawn in any state.

2. Item 20 of the Franchise Disclosure Document is amended as follows:

As of the date of this Franchise Disclosure Document, no franchisee is operating in Hawaii:

EACH PROVISION OF THIS ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT SHALL BE EFFECTIVE ONLY TO THE EXTENT, WITH RESPECT TO SUCH PROVISION, THAT THE JURISDICTIONAL REQUIREMENTS OF THE HAWAII FRANCHISE INVESTMENT LAW ARE MET INDEPENDENTLY WITHOUT REFERENCE TO THIS ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT.

**AMENDMENT TO SHAKEY’S USA, INC.**  
**FRANCHISE AGREEMENT AND AREA DEVELOPMENT AGREEMENT**  
**REQUIRED BY THE STATE OF HAWAII**

This Amendment to the Franchise Agreement and Area Development Agreement (the “Agreements”) is agreed to this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, between SHAKEY’S USA, INC. and \_\_\_\_\_ to amend and revise said Franchise Agreement and/or Area Development Agreement as follows:

1. In recognition of the requirements of the Hawaii Franchise Investment Law, Hawaii Revised Statutes, Title 26, Chapter 482E *et seq.*, the Franchise Agreement and Area Development Agreement for SHAKEY’S USA, INC. shall be amended as follows:

- The Hawaii Franchise Investment Law provides rights to Franchisee concerning nonrenewal, termination and transfer of the Agreements. If the Franchise Agreement, and more specifically, Sections 13, 14, 15 and the Area Development Agreement and more specifically Sections 10 and 11, contain a provision that is inconsistent with the Hawaii Franchise Investment Law, the Hawaii Franchise Investment Law will control.
- Sections 13 and 15 of the Franchise Agreement and Section 11 of the Area Development Agreement require Franchisee to sign a general release as a condition of renewal and transfer of the franchise; such release shall exclude claims arising under the Hawaii Franchise Investment Law.
- Section 16 of the Franchise Agreement, shall be supplemented by the addition of the following Section 16.F:

16.F. Hawaii Law. Pursuant to Section 482E-6(3) of the Hawaii Revised Statutes, for so long as such statute remains in effect and so provides, upon termination or refusal to renew the franchise, Franchisee shall be compensated for the fair market value, at the time of termination or expiration of the franchise, of Franchisee’s inventory, supplies, equipment and furnishings purchased from the Franchisor or a supplier designated by the Franchisor, exclusive of personalized materials which have no value to the Franchisor. If the Franchisor refuses to renew a franchise for the purpose of converting the franchised business to one owned by the Franchisor, the Franchisor, in addition to the remedies provided in this paragraph, shall compensate Franchisee for the loss of goodwill. The Franchisor may deduct from such compensation reasonable costs incurred in removing, transporting and disposing of Franchisee’s inventory, supplies, equipment and furnishings pursuant to this paragraph, and may offset from such compensation any moneys due to the Franchisor.

2. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of the Hawaii Franchise Investment Law are met independent of this Amendment. To the extent this addendum shall be deemed to be inconsistent with any terms or conditions of said Franchise Agreement or exhibits or attachments thereto, the terms of this addendum shall govern.

IN WITNESS WHEREOF, each of the undersigned hereby acknowledges having read this Amendment, and understands and consents to be bound by all of its terms.

SHAKEY'S USA, INC.:

Franchisee: \_\_\_\_\_

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**SHAKEY'S USA, INC.**  
**ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT**  
**REQUIRED BY THE STATE OF ILLINOIS**

**ITEM 17**

**RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION**

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.

	<b>PROVISION</b>	<b>SECTION IN FRANCHISE AGREEMENT</b>	<b>SUMMARY</b>
v.	Choice of forum	Section 18.G	State or federal court in Illinois
w.	Choice of law	Section 18.C	Illinois

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

	<b>PROVISION</b>	<b>SECTION IN AREA DEVELOPMENT AGREEMENT</b>	<b>SUMMARY</b>
v.	Choice of forum	Section 14.G	State or federal court in Illinois
w.	Choice of law	Section 14.C	Illinois

**Under the Franchise Disclosure Act, any provision in the Franchise Agreement and/or Area Development Agreement that designates jurisdiction or venue in a forum outside of Illinois is void. The conditions under which your franchise can be terminated and your rights upon non-renewal may be affected by Illinois law, 815 ILCS 705/1-44.**

**ITEM 20**

**OUTLETS AND FRANCHISE INFORMATION**

**THE DISCLOSURES IN ITEM 20 ARE CURRENT WITHIN 120 DAYS OF THE DATE OF THIS DISCLOSURE DOCUMENT.**

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 in connection with the franchise.

**AMENDMENT TO SHAKEY'S FRANCHISE AGREEMENT**  
**REQUIRED BY THE STATE OF ILLINOIS**

In recognition of the requirements of the Illinois Franchise Disclosure Act of 1997 (the "Act"), the parties to the attached Shakey's Franchise Agreement (the "Agreement") agree as follows:

1. Section 19.E. of the Agreement entitled "Miscellaneous" shall be amended to read as follows:

"This Agreement, including any incorporated documents, reflects the entire agreement of the parties. All negotiations, commitments, representations and understandings of the parties (including representations made or understandings communicated via Disclosure Document) which have taken place are merged into this Agreement. There are no other oral or written understandings or agreements which relate to this Agreement."

2. Sections 18.C, 18.E and 18.G of the Agreement entitled "Governing Law", "Limitation on Claims" and "Venue" respectively, shall be supplemented by the addition of the following:

"The Act prohibits Us from requiring litigation to be conducted outside Illinois and requires that Illinois law apply. No action shall be maintained to enforce any liability created by the Act unless brought before the expiration of 3 years after the act or transaction constituting the violation upon which it is based, the expiration of one year after the franchisee becomes aware of facts or circumstances reasonably indicating that he may have a claim for relief in respect to conduct governed by this Act, or 90 days after delivery to the franchisee of a written notice disclosing the violation, whichever shall first expire. Notwithstanding anything to the contrary, Illinois law governs the Agreement."

3. Section 18.I entitled "Waiver" is added to the Agreement, as follows:

Any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of this Act or any other law of this State is void. This Section shall not prevent any person from entering into a settlement agreement or executing a general release regarding a potential or actual lawsuit filed under any of the provisions of this Act, nor shall it prevent the arbitration of any claim pursuant to the provisions of Title 9 of the United States Code.

4. 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 in connection with the franchise.

IN WITNESS WHEREOF, the parties hereto have duly executed, sealed and delivered this Amendment to the Franchise Agreement in duplicate on the day and year first above written.

**ATTEST:**

**SHAKEY'S USA, INC.**

By: \_\_\_\_\_ (Seal)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Franchisor

**ATTEST:**

By: \_\_\_\_\_ (Seal)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Franchisee

**ATTEST:**

By: \_\_\_\_\_ (Seal)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Franchisee

Each of the undersigned as Guarantor of the Shakey's Franchise Agreement has read this Amendment to the Agreement; and each agrees to be individually bound by its terms.

**ATTEST:**

By: \_\_\_\_\_ (Seal)

\_\_\_\_\_  
Witness

By: \_\_\_\_\_ (Seal)

\_\_\_\_\_  
Witness

By: \_\_\_\_\_ (Seal)

\_\_\_\_\_  
Witness

**AMENDMENT TO SHAKEY'S AREA DEVELOPMENT AGREEMENT**  
**REQUIRED BY THE STATE OF ILLINOIS**

In recognition of the requirements of the Illinois Franchise Disclosure Act of 1997 (the "Act"), the parties to the attached Shakey's Area Development Agreement (the "Agreement") agree as follows:

1. Section 15.E. of the Agreement entitled "Construction" shall be amended to read as follows:

"This Agreement, including any incorporated documents, reflects the entire agreement of the parties. All negotiations, commitments, representations and understandings of the parties (including representations made or understandings communicated via Disclosure Document) which have taken place are merged into this Agreement. There are no other oral or written understandings or agreements which relate to this Agreement."

2. Sections 14.C, 14.E and 14.G of the Agreement entitled "Governing Law", "Limitation on Claims" and "Venue" respectively, shall be supplemented by the addition of the following:

"The Act prohibits Us from requiring litigation to be conducted outside Illinois and requires that Illinois law apply. No action shall be maintained to enforce any liability created by the Act unless brought before the expiration of 3 years after the act or transaction constituting the violation upon which it is based, the expiration of one year after the franchisee becomes aware of facts or circumstances reasonably indicating that he may have a claim for relief in respect to conduct governed by this Act, or 90 days after delivery to the franchisee of a written notice disclosing the violation, whichever shall first expire. Notwithstanding anything to the contrary, Illinois law governs the Agreement."

3. Section 14.I entitled "Waiver" is added to the Agreement, as follows:

Any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of this Act or any other law of this State is void. This Section shall not prevent any person from entering into a settlement agreement or executing a general release regarding a potential or actual lawsuit filed under any of the provisions of this Act, nor shall it prevent the arbitration of any claim pursuant to the provisions of Title 9 of the United States Code.

4. 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 in connection with the franchise.

IN WITNESS WHEREOF, the parties hereto have duly executed, sealed and delivered this Amendment to the Franchise Agreement in duplicate on the day and year first above written.

**ATTEST:**

**SHAKEY'S USA, INC.**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_ (Seal)  
Franchisor

**ATTEST:**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_ (Seal)  
Franchisee

**ATTEST:**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_ (Seal)  
Franchisee

Each of the undersigned as Guarantor of the Shakey's Area Development Agreement has read this Amendment to the Agreement; and each agrees to be individually bound by its terms.

**ATTEST:**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_ (Seal)

\_\_\_\_\_  
Witness

By: \_\_\_\_\_ (Seal)

\_\_\_\_\_  
Witness

By: \_\_\_\_\_ (Seal)

**ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT  
FOR THE STATE OF MARYLAND**

The following information applies to franchises and franchisees subject to Maryland statutes and regulations. Item numbers correspond to those in the main body of the disclosure document:

1. Item 17.

The Franchise Agreement provides for termination if you are insolvent under any applicable state or federal law. This provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. Section 101 et seq.).

2. Item 17.

A franchisee may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

3. Item 17.

Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.

4. Item 17.

The general release required as a condition of renewal, sale and/or assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law. All representations requiring prospective franchisees to assent to a release, estoppel or waiver of liability are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.

**ADDENDUM TO FRANCHISE AGREEMENT  
FOR THE STATE OF MARYLAND**

This Addendum relates to franchises sold in Maryland and is intended to comply with Maryland statutes and regulations. In consideration of the execution of the Franchise Agreement, Shakey's USA, Inc. and Franchisee agree to amend the Franchise Agreement as follows:

1. Release. Section 15.C. of the Franchise Agreement are amended to provide that any release required as a condition of assignment or renewal will not apply to liability under the Maryland Franchise Registration and Disclosure Law (the "Maryland Franchise Law").
2. Consent to Jurisdiction. Section 18.C. of the Franchise Agreement is amended to provide that, under the Maryland Franchise Law, any litigation involving claims arising under the Maryland Franchise Law that are not subject to arbitration may be brought in Federal District Court in Maryland.
3. Statute of Limitations. Any limitation on the period of the time mediation and/or litigation claims must be brought shall not act to reduce the 3 year statute of limitations afforded a franchisee for bringing claims arising under the Maryland Franchise Law.
4. Acknowledgments. Section 1.B. of the Franchise Agreement is amended by the addition of the following at the end of such Section: "The representations made herein are not intended to and will not act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law."
5. Construction. In all other respects, the Franchise Agreement will be construed and enforced in accordance with its terms.

"Company"

"Franchisee"

SHAKEY'S USA, INC.,  
a Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date of signing: \_\_\_\_\_

\_\_\_\_\_,  
[ ] an individual  
[ ] a general partnership;  
[ ] a limited partnership;  
[ ] a limited liability company;  
[ ] a corporation;  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date of signing: \_\_\_\_\_

**ADDENDUM TO AREA DEVELOPMENT AGREEMENT  
FOR THE STATE OF MARYLAND**

This Addendum relates to franchises sold in Maryland and is intended to comply with Maryland statutes and regulations. In consideration of the execution of the Area Development Agreement, Shakey’s USA, Inc. and Franchisee agree to amend the Area Development Agreement as follows:

1. Release. Section C.6. of the Area Development Agreement are amended to provide that any release required as a condition of assignment or renewal will not apply to liability under the Maryland Franchise Registration and Disclosure Law (the “Maryland Franchise Law”).
2. Consent to Jurisdiction. Section 14.G. of the Area Development Agreement are amended to provide that, under the Maryland Franchise Law, any litigation involving claims arising under the Maryland Franchise Law that are not subject to arbitration may be brought in Federal District Court in Maryland.
3. Statute of Limitations. Any limitation on the period of the time mediation and/or litigation claims must be brought shall not act to reduce the 3 year statute of limitations afforded a franchisee for bringing claims arising under the Maryland Franchise Law.
4. Acknowledgments. Section 1.B. of the Area Development Agreement is amended by the addition of the following at the end of such Section: “The representations made herein are not intended to and will not act as a release, estoppel or waiver of any liability incurred under the Maryland Franchise Registration and Disclosure Law.”
5. Construction. In all other respects, the Area Development Agreement will be construed and enforced in accordance with its terms.

“Company”

SHAKEY’S USA, INC.,  
a Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date of signing: \_\_\_\_\_

“Franchisee”

\_\_\_\_\_,  
 an individual  
 a general partnership;  
 a limited partnership;  
 a limited liability company;  
 a corporation;  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date of signing: \_\_\_\_\_

**ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT  
FOR THE STATE OF MINNESOTA**

1. Item 13, “Trademarks,” shall be amended by the addition of the following:

We will indemnify you for all costs and expenses you incur in any action or proceeding brought against you by any third party as a result of your authorized use of our trademarks.

2. Item 17, “Renewal, Termination, Transfer and Dispute Resolution,” shall be amended by the addition of the following paragraphs:

Minnesota Statutes, Section 80C.21 and Minnesota Rule 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 any of franchisee’s rights as provided for in Minnesota Statutes, Chapter 80C, or franchisee’s rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction.

With respect to franchises governed by Minnesota law, we will comply with Minn. Stat. Sec. 80C.14, Subds. 3, 4, and 5 which require, except in certain specified cases, 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.

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.

3. Minnesota Rules 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a general release.

4. The Limitations of Claims section must comply with Minnesota Statutes, Section 80C.17, Subd. 5.

5. 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 franchise.

**ADDENDUM TO FRANCHISE AGREEMENT  
FOR THE STATE OF MINNESOTA**

THIS ADDENDUM is entered into as of \_\_\_\_\_, 20\_\_\_\_ between Shakey's USA, Inc., a Delaware corporation ("Company"), and \_\_\_\_\_, a \_\_\_\_\_ ("Franchisee"), with reference to the following:

1. Company and Franchisee have entered into a Shakey's USA, Inc. Franchise Agreement dated as of \_\_\_\_\_, 20\_\_\_\_, (the "Franchise Agreement").
2. The parties wish to modify the Franchise Agreement, upon the terms and conditions set forth herein.

NOW, THEREFORE, the parties agree to amend the Franchise Agreement as follows:

1. Minnesota Statutes, Section 80C.21 and Minnesota Rule 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 any of franchisee's rights as provided for in Minnesota Statutes, Chapter 80C, or franchisee's rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction. 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.

2. With respect to franchises governed by Minnesota law, Company will comply with Minn. Stat. Sec. 80C.14, Subds. 3, 4 and 5 which require, except in certain specified cases, 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.

3. Minnesota Rules 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a general release.

4. Minnesota Rule 2860.4400J prohibits us from requiring you to waive your rights to a jury trial. The provision in Section 18.F. of the Franchise Agreement waiving your rights to a jury trial is hereby deleted and shall have no force or effect.

5. Notwithstanding anything to the contrary set forth in the Franchise Agreement, and in particularly Section 5.D. thereof, Company will indemnify Franchisee for all costs and expenses it incurs in any action or proceeding brought against Franchisee by any third party as a result of Franchisee's authorized use of Company's trademarks.

6. The Limitations of Claims section must comply with Minnesota Statutes, Section 80C.17, Subd. 5.

7. 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 franchise.

Except as set forth herein, the Franchise Agreement shall be valid and enforceable between the parties in accordance with its terms.

“Company”

SHAKEY’S USA, INC.,  
a Delaware corporation

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

Name: \_\_\_\_\_

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

Date of signing: \_\_\_\_\_

“Franchisee”

\_\_\_\_\_,

an individual

a general partnership;

a limited partnership;

a limited liability company;

a corporation;

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

Name: \_\_\_\_\_

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

Date of signing: \_\_\_\_\_

**ADDENDUM TO SHAKEY’S USA, INC.  
FRANCHISE OFFERING PROSPECTUS  
INFORMATION REQUIRED BY  
THE STATE OF NEW YORK**

1. All references made herein to a “Franchise Disclosure Document” shall be replaced with the term “Offering Prospectus” as used under New York Law.
  
2. THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE PROSPECTUS. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS PROSPECTUS.

In recognition of the requirements of the New York Franchise Sales Act, the Uniform Franchise Offering Prospectus for Shakey’s USA, Inc. for use in the State of New York shall be amended as follows:

1. Item 3, “Litigation” shall be amended by deleting the disclosure made therein and inserting in its place the following:

“Neither the franchisor, its parent, predecessor, any affiliate, nor any person identified in Item 2:

- (i) Has pending an administrative, criminal or civil action alleging: a felony; a violation of franchise antitrust or securities law; fraud, embezzlement, fraudulent conversion, unfair or deceptive practices, misappropriation of property or comparable civil or misdemeanor allegations;
  
- (ii) Has been convicted of a felony or pleaded nolo contendere to felony charge or, within the 10-year period immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a or civil action alleging: violation of any franchise, anti-fraud or securities law; fraud, embezzlement, fraudulent conversion, unfair or deceptive practices, misappropriation of property or comparable allegations;
  
- (iii) Is subject to a currently effective injunctive or restrictive order or decree relating to the franchise or under a federal, State or Canadian franchise, securities, antitrust, trade regulation or trade practices law resulting from of a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.”

2. Item 4, “Bankruptcy” shall be amended by deleting the disclosure made therein and inserting in its place the following:

“Neither the franchisor, its parent, predecessor, affiliate, officers, or general partner during the 10-year period immediately before the date of the Disclosure Document: (a) filed as debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code; (b) obtained a discharge of its debts under the bankruptcy code; or (c) was a principal officer of a company or a general partner in a partnership that either filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code or that obtained a discharge of its debts under the U.S. Bankruptcy Code during or within 1 year after the officer or general partner of the franchisor held this position in the company or partnership.”

3. Item 5, “Initial Franchise Fee” shall be amended by adding the following at the end of the first paragraph:

“The purpose of the initial franchise fee is to pay for our training, sales, legal compliance, salary, general administrative expense and profit.”

4. Item 17, “Renewal, Termination, Transfer and Dispute Resolution” shall be amended by adding/changing the following provisions:

THIS TABLE LISTS CERTAIN IMPORTANT PROVISIONS OF THE FRANCHISE AND RELATED AGREEMENTS PERTAINING TO RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION. YOU SHOULD READ THESE PROVISIONS IN THE AGREEMENTS ATTACHED TO THIS DISCLOSURE DOCUMENT.

**THE FRANCHISE AND AREA DEVELOPMENT RELATIONSHIPS**

d. Termination by You	N/A	You may terminate upon any ground permitted by law.
j. Assignment of contract by us	Section 13.A of the Franchise Agreement and Section 11.A of the Area Agreement	Freely assignable. However, no assignment will be made except to an assignee who, in our good faith and judgment, is willing and able to assume our obligations under the Franchise Agreement/Area Agreement
w. Choice of law	Section 18.C of the Franchise Agreement Section 14.C of the	California law. The foregoing choice of law should not be considered a waiver of any right

	Area Development Agreement	conferred upon you by the GBL of the State of New York.
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**THE FRANCHISOR REPRESENTS THAT THIS PROSPECTUS DOES NOT KNOWINGLY OMIT ANY MATERIAL FACT OR CONTAIN ANY UNTRUE STATEMENT OF MATERIAL FACT.**

## **ADDENDUM TO THE FRANCHISE DISCLOSURE DOCUMENT FOR THE STATE OF WASHINGTON**

The provisions of this Addendum form an integral part of, are incorporated into, and modify the Franchise Disclosure Document, the franchise agreement, and all related agreements regardless of anything to the contrary contained therein. This Addendum applies if: (a) the offer to sell a franchise is accepted in Washington; (b) the purchaser of the franchise is a resident of Washington; and/or (c) the franchised business that is the subject of the sale is to be located or operated, wholly or partly, in Washington.

1. **Conflict of Laws.** In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, chapter 19.100 RCW will prevail.

2. **Franchisee Bill of Rights.** RCW 19.100.180 may supersede provisions in the franchise agreement or related agreements concerning your relationship with the franchisor, including in the areas of termination and renewal of your franchise. There may also be court decisions that supersede the franchise agreement or related agreements concerning your relationship with the franchisor. Franchise agreement provisions, including those summarized in Item 17 of the Franchise Disclosure Document, are subject to state law.

3. **Site of Arbitration, Mediation, and/or Litigation.** In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.

4. **General Release.** A release or waiver of rights in the franchise agreement or related agreements purporting to bind the franchisee to waive compliance with any provision under the Washington Franchise Investment Protection Act or any rules or orders thereunder is void except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel, in accordance with RCW 19.100.220(2). In addition, any such release or waiver executed in connection with a renewal or transfer of a franchise is likewise void except as provided for in RCW 19.100.220(2).

5. **Statute of Limitations and Waiver of Jury Trial.** Provisions contained in the franchise agreement or related agreements that unreasonably restrict or limit the statute of limitations period for claims under the Washington Franchise Investment Protection Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.

6. **Transfer Fees.** Transfer fees are collectable only to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

7. **Termination by Franchisee.** The franchisee may terminate the franchise agreement under any grounds permitted under state law.

8. **Certain Buy-Back Provisions.** Provisions in franchise agreements or related agreements that permit the franchisor to repurchase the franchisee's business for any reason during the term of the franchise agreement without the franchisee's consent are unlawful pursuant to RCW 19.100.180(2)(j), unless the franchise is terminated for good cause.

9. **Fair and Reasonable Pricing.** Any provision in the franchise agreement or related agreements that requires the franchisee to purchase or rent any product or service for more than a fair and reasonable price is unlawful under RCW 19.100.180(2)(d).

10. **Waiver of Exemplary & Punitive Damages.** RCW 19.100.190 permits franchisees to seek treble damages under certain circumstances. Accordingly, provisions contained in the franchise agreement or elsewhere requiring franchisees to waive exemplary, punitive, or similar damages are void, except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel, in accordance with RCW 19.100.220(2).

11. **Franchisor's Business Judgement.** Provisions in the franchise agreement or related agreements stating that the franchisor may exercise its discretion on the basis of its reasonable business judgment may be limited or superseded by RCW 19.100.180(1), which requires the parties to deal with each other in good faith.

12. **Indemnification.** Any provision in the franchise agreement or related agreements requiring the franchisee to indemnify, reimburse, defend, or hold harmless the franchisor or other parties is hereby modified such that the franchisee has no obligation to indemnify, reimburse, defend, or hold harmless the franchisor or any other indemnified party for losses or liabilities to the extent that they are caused by the indemnified party's negligence, willful misconduct, strict liability, or fraud.

13. **Attorneys' Fees.** If the franchise agreement or related agreements require a franchisee to reimburse the franchisor for court costs or expenses, including attorneys' fees, such provision applies only if the franchisor is the prevailing party in any judicial or arbitration proceeding.

14. **Noncompetition Covenants.** Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provision contained in the franchise agreement or elsewhere that conflicts with these limitations is void and unenforceable in Washington.

15. **Nonsolicitation Agreements.** RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a

result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

16. **Questionnaires and Acknowledgments.** No statement, questionnaire, or acknowledgment 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 in connection with the franchise.

17. **Prohibitions on Communicating with Regulators.** Any provision in the franchise agreement or related agreements that prohibits the franchisee from communicating with or complaining to regulators is inconsistent with the express instructions in the Franchise Disclosure Document and is unlawful under RCW 19.100.180(2)(h).

18. **Advisory Regarding Franchise Brokers.** Under the Washington Franchise Investment Protection Act, a “franchise broker” is defined as a person that engages in the business of the offer or sale of franchises. A franchise broker represents the franchisor and is paid a fee for referring prospects to the franchisor and/or selling the franchise. If a franchisee is working with a franchise broker, franchisees are advised to carefully evaluate any information provided by the franchise broker about a franchise.

## ADDENDUM TO THE FRANCHISE AGREEMENT FOR THE STATE OF WASHINGTON

This Addendum is entered into on \_\_\_\_\_, 20\_\_ (the “Effective Date”), between Shakey’s USA, Inc., a Delaware corporation, with its principal business address at 220 West Valley Boulevard, Alhambra, California 91803 (“we”, “us”, “our” or “Franchisor”), and \_\_\_\_\_ (referred to in this Addendum as “you”, “your” or “Franchisee”) and amends the Franchise Agreement between the parties dated as of the Effective Date (together, the “Agreement”).

The provisions of this Addendum form an integral part of, are incorporated into, and modify the Franchise Agreement regardless of anything to the contrary contained therein. This Addendum applies if: (a) the offer to sell a franchise is accepted in Washington; (b) the purchaser of the franchise is a resident of Washington; and/or (c) the franchised business that is the subject of the sale is to be located or operated, wholly or partly, in Washington.

1. **Conflict of Laws.** In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, chapter 19.100 RCW will prevail.
2. **Franchisee Bill of Rights.** RCW 19.100.180 may supersede provisions in the franchise agreement or related agreements concerning your relationship with the franchisor, including in the areas of termination and renewal of your franchise. There may also be court decisions that supersede the franchise agreement or related agreements concerning your relationship with the franchisor. Franchise agreement provisions, including those summarized in Item 17 of the Franchise Disclosure Document, are subject to state law.
3. **Site of Arbitration, Mediation, and/or Litigation.** In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.
4. **General Release.** A release or waiver of rights in the franchise agreement or related agreements purporting to bind the franchisee to waive compliance with any provision under the Washington Franchise Investment Protection Act or any rules or orders thereunder is void except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel, in accordance with RCW 19.100.220(2). In addition, any such release or waiver executed in connection with a renewal or transfer of a franchise is likewise void except as provided for in RCW 19.100.220(2).
5. **Statute of Limitations and Waiver of Jury Trial.** Provisions contained in the franchise agreement or related agreements that unreasonably restrict or limit the statute of limitations period for claims under the Washington Franchise Investment Protection Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.

6. **Transfer Fees.** Transfer fees are collectable only to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

7. **Termination by Franchisee.** The franchisee may terminate the franchise agreement under any grounds permitted under state law.

8. **Certain Buy-Back Provisions.** Provisions in franchise agreements or related agreements that permit the franchisor to repurchase the franchisee's business for any reason during the term of the franchise agreement without the franchisee's consent are unlawful pursuant to RCW 19.100.180(2)(j), unless the franchise is terminated for good cause.

9. **Fair and Reasonable Pricing.** Any provision in the franchise agreement or related agreements that requires the franchisee to purchase or rent any product or service for more than a fair and reasonable price is unlawful under RCW 19.100.180(2)(d).

10. **Waiver of Exemplary & Punitive Damages.** RCW 19.100.190 permits franchisees to seek treble damages under certain circumstances. Accordingly, provisions contained in the franchise agreement or elsewhere requiring franchisees to waive exemplary, punitive, or similar damages are void, except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel, in accordance with RCW 19.100.220(2).

11. **Franchisor's Business Judgement.** Provisions in the franchise agreement or related agreements stating that the franchisor may exercise its discretion on the basis of its reasonable business judgment may be limited or superseded by RCW 19.100.180(1), which requires the parties to deal with each other in good faith.

12. **Indemnification.** Any provision in the franchise agreement or related agreements requiring the franchisee to indemnify, reimburse, defend, or hold harmless the franchisor or other parties is hereby modified such that the franchisee has no obligation to indemnify, reimburse, defend, or hold harmless the franchisor or any other indemnified party for losses or liabilities to the extent that they are caused by the indemnified party's negligence, willful misconduct, strict liability, or fraud.

13. **Attorneys' Fees.** If the franchise agreement or related agreements require a franchisee to reimburse the franchisor for court costs or expenses, including attorneys' fees, such provision applies only if the franchisor is the prevailing party in any judicial or arbitration proceeding.

14. **Noncompetition Covenants.** Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provision contained in the franchise agreement or elsewhere that conflicts with these limitations is void and unenforceable in Washington.

15. **Nonsolicitation Agreements.** RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

16. **Questionnaires and Acknowledgments.** No statement, questionnaire, or acknowledgment 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 in connection with the franchise.

17. **Prohibitions on Communicating with Regulators.** Any provision in the franchise agreement or related agreements that prohibits the franchisee from communicating with or complaining to regulators is inconsistent with the express instructions in the Franchise Disclosure Document and is unlawful under RCW 19.100.180(2)(h).

18. **Advisory Regarding Franchise Brokers.** Under the Washington Franchise Investment Protection Act, a “franchise broker” is defined as a person that engages in the business of the offer or sale of franchises. A franchise broker represents the franchisor and is paid a fee for referring prospects to the franchisor and/or selling the franchise. If a franchisee is working with a franchise broker, franchisees are advised to carefully evaluate any information provided by the franchise broker about a franchise.

Intending to be bound, you and we sign and deliver this Addendum in 2 counterparts effective on the Effective Date, regardless of the actual date of signature.

SHAKEY’S USA, INC.

FRANCHISEE

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

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

Name and Title: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**ADDENDUM TO THE AREA DEVELOPMENT AGREEMENT  
FOR THE STATE OF WASHINGTON**

This Addendum is entered into on \_\_\_\_\_, 20\_\_ (the “Effective Date”), between Shakey’s USA, Inc., a Delaware corporation, with its principal business address at 220 West Valley Boulevard, Alhambra, California 91803 (“we”, “us”, “our” or “Franchisor”), and \_\_\_\_\_ (referred to in this Addendum as “you”, “your” or “Franchisee”) and amends the Area Development Agreement between the parties dated as of the Effective Date (together, the “Agreement”).

The provisions of this Addendum form an integral part of, are incorporated into, and modify the Area Development Agreement regardless of anything to the contrary contained therein. This Addendum applies if: (a) the offer to sell a franchise is accepted in Washington; (b) the purchaser of the franchise is a resident of Washington; and/or (c) the franchised business that is the subject of the sale is to be located or operated, wholly or partly, in Washington.

1. **Conflict of Laws.** In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, chapter 19.100 RCW will prevail.
2. **Franchisee Bill of Rights.** RCW 19.100.180 may supersede provisions in the franchise agreement or related agreements concerning your relationship with the franchisor, including in the areas of termination and renewal of your franchise. There may also be court decisions that supersede the franchise agreement or related agreements concerning your relationship with the franchisor. Franchise agreement provisions, including those summarized in Item 17 of the Franchise Disclosure Document, are subject to state law.
3. **Site of Arbitration, Mediation, and/or Litigation.** In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.
4. **General Release.** A release or waiver of rights in the franchise agreement or related agreements purporting to bind the franchisee to waive compliance with any provision under the Washington Franchise Investment Protection Act or any rules or orders thereunder is void except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel, in accordance with RCW 19.100.220(2). In addition, any such release or waiver executed in connection with a renewal or transfer of a franchise is likewise void except as provided for in RCW 19.100.220(2).
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Intending to be bound, you and we sign and deliver this Addendum in 2 counterparts effective on the Effective Date, regardless of the actual date of signature.

SHAKEY’S USA, INC.

FRANCHISEE

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

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

Name and Title: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit "F"**

**Franchisee Information as of December 31, 2024**

**Exhibit "F"**

**Franchisees as of January 1, 2025**

**CALIFORNIA**

Idrees, Mohammad  
330 N. Brea Boulevard, Suite L  
Brea, CA 92621  
(714) 671-3949

McNulty, John  
11420 E. Valley Blvd.  
El Monte, CA 91731  
(626) 444-0327

Chi, Dean  
DRC Foods, LLC  
16000 Foothill Blvd.  
Fontana, CA 92335  
(909) 985-5118

Solomon, Emmanuel  
12540 Valley View Blvd.  
Garden Grove, CA 92845  
(714) 240-3867

Tran, Van Thuy  
315 W. Whittier Blvd.  
La Habra, CA 90631  
(562) 694-2282

Ahmed, Nisar  
1880 N. Hacienda Blvd.  
La Puente, CA 91744  
(626) 918-7471

Veum, Harold  
23346 Sunnymead Blvd.  
Moreno Valley, CA 92556  
(909) 242-2200

Idrees, Mohammad  
Williams, Jeff  
10340 Reseda Blvd.  
Northridge, CA 91326  
(818) 360-2151

Harvey, Daniel & Christine  
2890 Olive Highway  
Oroville, CA 95966  
(914) 534-8844

Anton, Mahinda  
999 E. Tahquitz-McCallum Way  
Palm Springs, CA 92262  
(760) 325-1521

Idrees, Mohammad  
8052 E. Rosecrans Ave.  
Paramount, CA 90723  
(714) 671-3949

Wilburn, Charles  
836 W. Colton Boulevard  
Redlands, CA 92373  
(909) 793-5993

Ahmed, Nisar  
Jamshed Ali Khan  
1406 S. Fairview Street  
Santa Ana, CA 92704  
(714) 546-8968

Idrees, Mohammad  
Williams, Jeff  
13701 Foothill Blvd.  
Sylmar, CA 91342  
(818) 360-2151

Lewis, Gary  
5105 W. Torrance Blvd.  
Torrance, CA 90503  
(562) 371-6586

Chi, Dean  
Bissol, Inc.  
791 E. Foothill Blvd.  
Upland, CA 91786  
(909) 985-5118

**WASHINGTON**

Absolute Wireless, LLC  
Mr. Dean Wellsfry  
4525 North Road 68, Suite A  
Pasco, WA 99301  
(509) 545-8588

**Exhibit “F-1”**

**Stores Not Yet Open as of January 1, 2025**

**None**

**Exhibit “F-2”**

**Former Franchisees**

THE FOLLOWING IS A LIST OF FRANCHISEES AND THEIR HOME ADDRESSES AND TELEPHONE NUMBERS WHOSE FRANCHISES WERE TERMINATED, CANCELLED, NOT RENEWED, OR OTHERWISE VOLUNTARILY OR INVOLUNTARILY CEASED TO DO BUSINESS UNDER THE FRANCHISE AGREEMENT DURING THE ONE YEAR PERIOD IMMEDIATELY PRECEDING JANUARY 6, 2009 OR WHO HAS NOT COMMUNICATED WITH US WITHIN 10 WEEKS OF THE DATE OF THIS DISCLOSURE DOCUMENT.

**CALIFORNIA**

Michael “Mick” Clark  
12981 Ramona Blvd. Suite D  
Irwindale, CA 91706  
(818) 515-3178

Mina Matta  
14434 Sweet Grass Way  
Victorville, CA 92394  
(760)780-9900

**WASHINGTON**

Bender, Lori  
14607 SE 173rd Street  
Renton, WA 98958  
(206)300-2821

IF YOU BUY THIS FRANCHISE, YOUR CONTACT INFORMATION MAY BE DISCLOSED TO OTHER BUYERS WHEN YOU LEAVE THE FRANCHISE SYSTEM.

**Exhibit "G"**

**Financial Statements**

**SHAKEY'S USA, INC. AND SUBSIDIARIES**  
**Consolidated Financial Statements**  
**December 31, 2024 and January 2, 2024**  
**With Independent Auditor's Report**

**Shakey's USA, Inc. and Subsidiaries**  
**Table of Contents**  
**December 31, 2024 and January 2, 2024**

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## INDEPENDENT AUDITOR'S REPORT

To the Board of Directors of  
Shakey's USA, Inc. and Subsidiaries:

### Opinion

We have audited the consolidated financial statements of Shakey's USA, Inc. and Subsidiaries (the "Company"), which comprise the consolidated balance sheets as of December 31, 2024 and January 2, 2024, the related consolidated statements of income, stockholders' equity and cash flows for the years then ended, and the related notes to consolidated financial statements.

In our opinion, the accompanying consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2024 and January 2, 2024, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

### Basis for Opinion

We conducted our audits 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 Consolidated Financial Statements 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 audits. 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 Consolidated Financial Statements

Management is responsible for the preparation and fair presentation of the consolidated financial statements 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 consolidated financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the consolidated financial statements, 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 consolidated financial statements are available to be issued.

### Auditor's Responsibilities for the Audit of the Consolidated Financial Statements

Our objectives are to obtain reasonable assurance about whether the consolidated financial statements as a whole are 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 consolidated financial statements.

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 consolidated financial statements, 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 consolidated financial statements.
- 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 consolidated financial statements.
- 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.



June 30, 2025

**Shakey's USA, Inc. and Subsidiaries**  
**Consolidated Balance Sheets**  
**December 31, 2024 and January 2, 2024**

	<u>December 31,</u> <u>2024</u>	<u>January 2,</u> <u>2024</u>
<b>Assets</b>		
Current assets		
Cash and cash equivalents	\$ 9,601,000	\$ 11,247,000
Restricted cash	800,000	583,000
Accounts receivable, net of allowance for doubtful accounts of \$5,000	836,000	830,000
Accounts receivable, affiliates	331,000	-
Inventory of food and beverages	399,000	370,000
Note receivable, affiliates	-	3,923,000
Due from affiliate, bank loan	14,200,000	7,359,000
Due from affiliate, interest	388,000	22,000
Prepaid expenses and other current assets	<u>164,000</u>	<u>1,029,000</u>
Total current assets	<u>26,719,000</u>	<u>25,363,000</u>
Property and equipment, at cost		
Buildings	61,000	61,000
Equipment and furnishings	14,830,000	13,961,000
Leasehold improvements	24,730,000	20,871,000
Construction in process	<u>735,000</u>	<u>79,000</u>
	40,356,000	34,972,000
Less: Accumulated depreciation and amortization	<u>34,336,000</u>	<u>29,686,000</u>
Net property and equipment	<u>6,020,000</u>	<u>5,286,000</u>
Other assets		
Right-of-use assets	27,211,000	41,227,000
Franchising rights	6,862,000	6,862,000
Goodwill, net	3,241,000	1,892,000
Other intangible assets	403,000	403,000
Deferred income taxes	662,000	799,000
Other assets	<u>153,000</u>	<u>138,000</u>
Total other assets	<u>38,532,000</u>	<u>51,321,000</u>
Total assets	<u>\$ 71,271,000</u>	<u>\$ 81,970,000</u>

The Notes to Consolidated Financial Statements are an integral part of these statements.

**Shakey's USA, Inc. and Subsidiaries**  
**Consolidated Balance Sheets**  
**December 31, 2024 and January 2, 2024**

	<u>December 31,</u> <u>2024</u>	<u>January 2,</u> <u>2024</u>
<b>Liabilities and Stockholders' Equity</b>		
Current liabilities		
Accounts payable	\$ 1,746,000	\$ 379,000
Accounts payable, affiliates	-	1,967,000
Accrued salaries and wages	2,540,000	2,581,000
Escrow fees payable	1,727,000	-
Other accrued liabilities	2,625,000	2,434,000
Deferred revenue	23,000	-
Advertising fund liability	945,000	730,000
Operating lease liability, current portion	2,920,000	3,947,000
Note payable, current portion	178,000	166,000
Bank loan	14,200,000	7,359,000
Bank loan interest payable	<u>68,000</u>	<u>22,000</u>
Total current liabilities	<u>26,972,000</u>	<u>19,585,000</u>
Non-current liabilities		
Operating lease liability, net of current portion	25,163,000	37,964,000
Note payable, net of current portion and discount of \$600,000	<u>1,746,000</u>	<u>1,912,000</u>
Total non-current liabilities	<u>26,909,000</u>	<u>39,876,000</u>
 Total liabilities	 <u>53,881,000</u>	 <u>59,461,000</u>
<b>Commitments and Contingencies</b>		
Stockholders' equity		
Common stock, \$0.0001 par value, 15,000,000 shares authorized, 7,172,631 shares issued and outstanding	1,000	1,000
Additional paid-in capital	22,606,000	22,606,000
Retained earnings (accumulated deficit)	2,430,000	(98,000)
Treasury stock, 1,778,481 shares at cost	<u>(7,647,000)</u>	<u>-</u>
Total stockholders' equity	<u>17,390,000</u>	<u>22,509,000</u>
 Total liabilities and stockholders' equity	 <u>\$ 71,271,000</u>	 <u>\$ 81,970,000</u>

The Notes to Consolidated Financial Statements are an integral part of these statements.

**Shakey's USA, Inc. and Subsidiaries**  
**Consolidated Statements of Income**  
**Years Ended December 31, 2024 and January 2, 2024**

	<u>December 31,</u> <u>2024</u>	<u>January 2,</u> <u>2024</u>
<b>Revenue and income</b>		
Sales of food and beverages	\$ 63,508,000	\$ 63,185,000
Game income	6,475,000	6,666,000
Royalty income	1,716,000	1,659,000
Advertising fund contributions	811,000	808,000
Grant income	179,000	115,000
Other income	1,138,000	646,000
Interest income - parent company	<u>832,000</u>	<u>22,000</u>
Total revenue and income	<u>74,659,000</u>	<u>73,101,000</u>
<b>Expenses</b>		
Cost of sales - food and beverages	18,442,000	19,021,000
Cost of sales - game	1,023,000	1,009,000
Advertising fund expense	811,000	808,000
Operating expenses	40,797,000	39,253,000
General and administrative expenses	7,776,000	7,980,000
Depreciation and amortization	1,471,000	1,598,000
Interest expense	152,000	134,000
Interest expense - parent company	<u>832,000</u>	<u>22,000</u>
Total expenses	<u>71,304,000</u>	<u>69,825,000</u>
Income before income tax expense	<u>3,355,000</u>	<u>3,276,000</u>
<b>Income tax expense</b>		
Current income tax	(690,000)	(54,000)
Deferred income tax	<u>(137,000)</u>	<u>(888,000)</u>
Total income tax expense	<u>(827,000)</u>	<u>(942,000)</u>
Net income	<u>\$ 2,528,000</u>	<u>\$ 2,334,000</u>

The Notes to Consolidated Financial Statements are an integral part of these statements.

**Shakey's USA, Inc. and Subsidiaries**  
**Consolidated Statements of Stockholders' Equity**  
**Years Ended December 31, 2024 and January 2, 2024**

	<u>Common Stock</u>		<u>Additional Paid-In Capital</u>	<u>Retained Earnings (Accumulated Deficit)</u>	<u>Treasury Stock</u>	<u>Total</u>
	<u>Shares</u>	<u>Amount</u>				
<b>Balance at January 3, 2023</b>	7,172,631	\$ 1,000	\$ 22,606,000	\$ (2,432,000)	\$ -	\$ 20,175,000
Net income	<u>-</u>	<u>-</u>	<u>-</u>	<u>2,334,000</u>	<u>-</u>	<u>2,334,000</u>
<b>Balance at January 2, 2024</b>	7,172,631	1,000	22,606,000	(98,000)	-	22,509,000
Net income	-	-	-	2,528,000	-	2,528,000
Share repurchase	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>(7,647,000)</u>	<u>(7,647,000)</u>
<b>Balance at December 31, 2024</b>	<u>7,172,631</u>	<u>\$ 1,000</u>	<u>\$ 22,606,000</u>	<u>\$ 2,430,000</u>	<u>\$ (7,647,000)</u>	<u>\$ 17,390,000</u>

The Notes to Consolidated Financial Statements are an integral part of these statements.

**Shakey's USA, Inc. and Subsidiaries**  
**Consolidated Statements of Cash Flows**  
**Years Ended December 31, 2024 and January 2, 2024**

	<u>December 31,</u> <u>2024</u>	<u>January 2,</u> <u>2024</u>
<b>Operating activities</b>		
Net income	\$ 2,528,000	\$ 2,334,000
Adjustments to reconcile net income to net cash provided by operating activities		
Depreciation of property and equipment	1,223,000	1,445,000
Gain on sale of assets	-	41,000
Amortization of right-of-use asset	16,593,000	2,746,000
Amortization of goodwill	248,000	153,000
Amortization of debt discount	151,000	112,000
Deferred income taxes	137,000	820,000
Changes in assets and liabilities		
Accounts receivable	(6,000)	4,965,000
Inventory of food and beverages	(29,000)	(2,000)
Note receivable, affiliates	3,923,000	(3,923,000)
Prepaid expenses and other current assets	865,000	(642,000)
Due from affiliate, interest	(366,000)	-
Other assets	(15,000)	109,000
Accounts payable	1,367,000	55,000
Accounts payable, affiliates	(2,298,000)	1,006,000
Accrued salaries and wages	(41,000)	(277,000)
Escrow fees payable	1,727,000	-
Other accrued liabilities	(263,000)	(30,000)
Deferred revenue	23,000	-
Advertising fund liability	215,000	203,000
Operating lease liability	(16,405,000)	(2,580,000)
Bank loan interest payable	46,000	-
Net cash provided by operating activities	<u>9,623,000</u>	<u>6,535,000</u>
<b>Investing activities</b>		
Payments for purchases of property and equipment	(1,904,000)	(948,000)
Purchase of restaurants	<u>(1,650,000)</u>	<u>-</u>
Net cash used in investing activities	<u>(3,554,000)</u>	<u>(948,000)</u>

The Notes to Consolidated Financial Statements are an integral part of these statements.

**Shakey's USA, Inc. and Subsidiaries**  
**Consolidated Statements of Cash Flows**  
**Years Ended December 31, 2024 and January 2, 2024**

	<u>December 31,</u> <u>2024</u>	<u>January 2,</u> <u>2024</u>
<b>Financing activities</b>		
Repayments on note payable	\$ (305,000)	\$ (229,000)
Payment of dividends	-	(133,000)
Repurchase of treasury stock	<u>(7,193,000)</u>	<u>-</u>
Net cash used in financing activities	<u>(7,498,000)</u>	<u>(362,000)</u>
Net change in cash, cash equivalents and restricted cash	(1,429,000)	5,225,000
<b>Cash, cash equivalents and restricted cash</b>		
Beginning of year	<u>11,830,000</u>	<u>6,605,000</u>
End of year	<u>\$ 10,401,000</u>	<u>\$ 11,830,000</u>
<b>Supplemental disclosure of cash flow information</b>		
Cash paid during the year for		
Interest	<u>\$ 320,000</u>	<u>\$ 134,000</u>
Income taxes	<u>\$ 570,000</u>	<u>\$ 54,000</u>
<b>Non-cash investing and financing activities</b>		
Purchase of restaurants with notes payable	<u>\$ -</u>	<u>\$ 2,194,000</u>
Treasury stock acquired through accrued liability	<u>\$ 454,000</u>	<u>\$ -</u>
Borrowings on notes payable passed through to affiliate	<u>\$ 6,841,000</u>	<u>\$ 7,359,000</u>
<b>Reconciliation of cash, cash equivalents and restricted cash to the consolidated balance sheets</b>		
Cash and cash equivalents	\$ 9,601,000	\$ 11,247,000
Restricted cash	<u>800,000</u>	<u>583,000</u>
Cash, cash equivalents and restricted cash	<u>\$ 10,401,000</u>	<u>\$ 11,830,000</u>

The Notes to Consolidated Financial Statements are an integral part of these statements.

# Shakey's USA, Inc. and Subsidiaries

## Notes to Consolidated Financial Statements

### December 31, 2024 and January 2, 2024

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#### 1. THE COMPANY

Shakey's USA, Inc. ("SUSA") is engaged in franchising Shakey's Restaurants in the United States of America. Currently there are 19 franchised Shakey's Restaurants operating in the United States. SCO, LLC ("SCO"), the subsidiary of SUSA, currently operates the 28 Shakey's restaurants in California.

#### 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

##### Fiscal Year End

SUSA has adopted a fiscal year end on a fifty-two (52) - fifty-three (53) week basis that ends on the first Tuesday after December 30th of each year. Accordingly, there will be fifty-three weeks approximately every fifth year. The current fiscal year, which ended December 31, 2024, is a fifty-two-week year.

##### Principles of Consolidation

The accompanying consolidated financial statements include the accounts of SUSA and its subsidiary (the "Company"). All significant inter-company transactions and balances have been eliminated in consolidation.

##### Revenue Recognition

The Company's revenues include sales by Company-operated restaurants, game income from Company-operated restaurants, franchise fee income from franchisees and royalty income from restaurants operated by franchisees. The Company recognizes revenue in accordance with Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") Topic 606, which requires an entity to recognize revenue to depict the transfer of goods or services to customers in an amount that reflects consideration to which an entity expects to be entitled in exchange for those goods or services. Revenue from Company-operated restaurants is recognized when payment is tendered at the point of sale. Royalties from restaurants operated by franchisees, are based on a percent of sales and recognized at the time the underlying sales occur. Initial franchise fees have been recognized as the Company satisfies the performance obligation over the franchise term, which is generally 10 years. Game revenues are recognized as tokens or game credits are purchased by customers.

The Company collects and administers funds contributed for use in advertising and promotional programs designed to increase sales and enhance the reputation of the Company and its franchise owners. Contributions from the franchisees to the advertising funds are required for both Company operated and franchise restaurants and are generally based on a percentage of restaurant sales. The Company controls and consolidates the advertising fund contributions in the consolidated financial statements. The Company is required to account for these advertising fund contributions separately from other cash on hand and cannot use these advertising fund contributions for general operating purposes. Under FASB Accounting Standards Codification Topic 606, *Revenue from Contracts with Customers*, the Company has determined that it acts as the principal under this arrangement as it is primarily responsible for the fulfillment and control of the marketing services. Accordingly, the Company records advertising fund contributions in revenue and the related advertising fees expenditures in expense in the consolidated statements of income.

In determining the appropriate amount of revenue to be recognized as it fulfills its obligations under its arrangements, the Company performs the following steps (i) identify contracts with customers; (ii) identify performance obligations; (iii) determine the transaction price; (iv) allocation of the transaction price to the performance obligations; and (v) recognition of revenue when (or as) the Company satisfies each performance obligation. A performance obligation is defined as a promise in a contract to transfer a distinct good or service to the customer and is the unit of accounting in Topic 606. Accounts receivable at January 4, 2023 was \$5,795,000.

**Shakey's USA, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**  
**December 31, 2024 and January 2, 2024**

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**Leases**

The Company categorizes leases with contractual terms longer than 12 months as either operating or financing. Finance leases are generally those that allow the Company to substantially utilize or pay for the entire asset over its estimated life. All other leases are categorized as operating leases. Leases with contractual terms of 12 months or less are not recorded on the consolidated balance sheets. The Company had 16 operating leases as of and for the year ended December 31, 2024.

Certain lease contracts include obligations to pay for other services, such as operations, property taxes, and maintenance. The services are accounted for separately and the Company allocates payments to the leases and other service components based on estimated stand-alone prices.

Lease liabilities are recognized at the present value of the fixed lease payments, reduced by landlord incentives, using a discount rate based on the risk-free rate. Right-of-use ("ROU") assets are recognized based on the initial present value of the fixed lease payments, reduced by landlord incentives, plus any direct costs from executing the leases. Lease assets are tested for impairment in the same manner as long-lived assets used in operations.

Options to extend lease terms, terminate leases before the contractual expiration date, or purchase the leased assets, are evaluated for their likelihood of exercise. If it is reasonably certain that the option will be exercised, the option is considered in determining the classification and measurement of the lease.

Costs associated with operating lease assets are recognized on a straight-line basis within operating expenses over the term of the lease.

**Stock-Based Compensation**

The Company accounts for stock-based compensation in accordance with guidance issued by the FASB, which requires the measurement and recognition of compensation expense for all stock based payment awards made to employees based on the estimated grant date fair value of the award. The value of the portion of the award that is ultimately expected to vest is recognized as expense over the requisite service periods in the Company's consolidated statements of income.

**Fair Value of Financial Instruments**

The Company measures its financial assets and liabilities at fair value. Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (i.e., exit price) in an orderly transaction between market participants at the measurement date. Additionally, the Company is required to provide disclosure and categorize assets and liabilities measured at fair value into one of three different levels depending on the assumptions (i.e., inputs) used in the valuation. Level 1 provides the most reliable measure of fair value, while Level 3 generally requires significant management judgment. Financial assets and liabilities are classified in their entirety based on the lowest level of input significant to the fair value measurement. The fair value hierarchy is defined as follows:

*Level 1* - Valuations are based on unadjusted quoted prices in active markets for identical assets or liabilities. The Company does not hold any Level 1 assets.

*Level 2* - Valuations are based on quoted prices for similar assets or liabilities in active markets, or quoted prices in markets that are not active for which significant inputs are observable, either directly or indirectly. The Company does not hold any Level 2 assets.

**Shakey's USA, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**  
**December 31, 2024 and January 2, 2024**

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*Level 3* - Valuations are based on prices or valuation techniques that require inputs that are both unobservable and significant to the overall fair value measurement. Inputs reflect management's best estimate of what market participants would use in valuing the asset or liability at the measurement date. The Company does not hold any Level 3 assets at December 31, 2024.

The following table summarizes fair value measurements at December 31, 2024 and January 2, 2024 for assets and liabilities measured at fair value on a recurring basis:

	<b>December 31, 2024</b>			
	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total</u>
Phantom stock	\$ -	\$ -	\$ -	\$ -
	<b>January 2, 2024</b>			
	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total</u>
Phantom stock	\$ -	\$ -	\$ 218,000	\$ 218,000

During the year ended December 31, 2024, the phantom stock did not increase in value as the Company froze the plan during the year ended January 3, 2023. The plan was officially terminated and paid out during January 2024. The Company paid out a total of \$218,000 related to the plan.

The carrying amount of the Company's financial instruments, including accounts receivable, accounts payable and accrued and other current liabilities, approximates fair value due to their short-term nature.

**Impairment of Long-Lived Assets**

The Company reviews its long-lived assets for impairment in accordance with FASB Accounting Standards Codification Topic 350, *Intangibles - Goodwill and Others*, whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of the assets to future net cash flows expected to be generated by the assets. If the assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount exceeds the fair value of the assets. No impairment loss was recorded during the fiscal years ended December 31, 2024 and January 2, 2024 related to long-lived assets.

**Allowance for Doubtful Accounts**

The Company extends credit to customers based on the size of the customer, its payment history, and other factors. The Company generally does not require collateral to support customer receivables. The Company's estimate is based on historical collection experience, analysis of forward-looking industry, customer and economic trends and factors and a review of the current status of trade accounts receivable. It is reasonably possible that the Company's estimate of the allowance for doubtful accounts will change. Accounts receivable are presented net of an allowance for doubtful accounts of \$5,000 at December 31, 2024.

**Cash and Cash Equivalents**

The Company considers all highly liquid financial instruments with maturities of three months or less to be cash equivalents.

**Shakey's USA, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**  
**December 31, 2024 and January 2, 2024**

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**Restricted Cash**

Restricted cash consists of contributions received from both Company operated and franchise restaurants for the sole purpose of advertising and development and are not available for general operating purposes.

**Inventory**

Inventory consists of food, beverages, restaurant supplies and is valued at the lower of cost or net realizable value, cost being determined by the first-in, first-out method.

**Property and Equipment**

Property and equipment are stated at cost less accumulated depreciation. Depreciation of buildings and equipment and furnishings is computed on the straight-line basis over the estimated useful lives of the assets as follows:

<u>Description</u>	<u>Estimated Life (Years)</u>
Buildings	15
Equipment and furnishings	3-7

Leasehold improvements are amortized on the straight-line basis over the shorter of the life of the asset or the lease.

Upon the disposition of an asset, its accumulated depreciation is deducted from the original cost, and any gain or loss is reflected in current earnings. Repairs and maintenance that do not enhance the use or extend the life of property and equipment are expensed as incurred. Depreciation expense for the fiscal years ended December 31, 2024 and January 2, 2024 was \$1,223,000 and \$1,445,000, respectively.

**Use of Estimates**

The preparation of consolidated financial statements 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, liabilities, revenues and expenses during the reporting periods. Management estimates include the valuation and useful lives of property and equipment, the allowance for doubtful accounts, the allowance for inventory obsolescence, the valuation and impairment of goodwill and intangible assets and the deferred income tax valuation allowance. Management uses its historical records and knowledge of its business in making these estimates. Actual results could differ from these estimates.

**Income Taxes**

The Company recognizes deferred tax liabilities and assets based on the differences between the consolidated financial statement carrying amounts and the tax bases of assets and liabilities using enacted tax rates in effect in the years the differences are expected to reverse. Deferred income tax benefit or expense results from the change in net deferred tax assets and liabilities. A valuation allowance is recorded when it is more likely than not that some or all deferred tax assets will not be realized.

The Company accounts for uncertain tax positions using a comprehensive model to recognize, measure, present and disclose in its consolidated financial statements uncertain tax positions that the Company has taken or expects to take on a tax return.

**Shakey's USA, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**  
**December 31, 2024 and January 2, 2024**

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**Advertising Costs**

Advertising costs are expensed as incurred and totaled \$3,684,000 and \$3,655,000 for the fiscal years ended December 31, 2024 and January 2, 2024, respectively.

**Franchising Rights**

Franchising rights consist of exclusive rights (trademark/brand) to license stores as Shakey's restaurants. These assets have indefinite useful lives due to the expected use of these rights and the lack of legal, regulatory, contractual, competitive, economic or other factors that may limit their useful lives.

These rights have no expiration date and can be renewed indefinitely for a nominal amount; therefore, franchising rights are not amortized. However, they are subject to an annual impairment test. No impairment loss was recorded during the fiscal years ended December 31, 2024 and January 2, 2024 related to franchising rights.

**Intangible Assets**

Intangible assets consisted of trademarks. Trademarks can be renewed indefinitely for a nominal amount; therefore, trademarks are not amortized. However, they are subject to an annual impairment test. No impairment loss was recorded during the fiscal years ended December 31, 2024 and January 2, 2024 related to trademarks.

**Goodwill**

Goodwill represents the excess of cost over the fair value of tangible net assets and identifiable intangible assets acquired in a business acquisition. Goodwill is amortized using the straight-line method over a 10-year period in accordance with the Private Company GAAP alternative issued by the Financial Accounting Standards Board Private Company Council. The Company also follows the private company accounting alternative to subsume customer related intangibles and noncompete agreements into goodwill.

**3. ACQUISITION OF RESTAURANTS**

On October 9, 2024, the Company recorded an acquisition as a business combination for the Chino and Victorville locations, which were obtained under one purchase agreement. As a result, the Company increased the number of their Company-owned Shakey's restaurants by two. The business combination was transacted as part of an asset purchase agreement through which the Company purchased two Shakey's restaurants that were formerly franchised in California (Chino and Victorville) from one franchisee for a combined contractual purchase price of \$1,650,000.

For the acquisition, the carrying amount of goodwill was \$1,597,000. Goodwill is amortized using the straight-line method over a 10-year period. Goodwill arising from the acquisition consists largely from the synergies and economies of scale related in addition to maintaining the brand recognition and Shakey's name. The goodwill recognized is expected to be deductible for income tax purposes.

Consideration related to the business combination was cash paid of \$1,650,000, which included the purchase price of \$1,400,000 and lease buyout of \$250,000 for the Victorville property.

The transaction and fair value of the assets recorded consisted of liquor licenses of \$3,000, equipment of \$42,700, leasehold improvements of \$7,000 and goodwill of \$1,597,000. The accumulated amortization expense for Chino and Victorville was \$27,000.

**Shakey's USA, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**  
**December 31, 2024 and January 2, 2024**

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On April 20, 2023 for Santa Fe Springs, and May 10, 2023 for Monterey Park the Company recorded an acquisition as a business combination. The business combination was transacted as part of an asset purchase agreement through which the Company purchased two Shakey's restaurants that were formerly franchised in California (Santa Fe Springs and Monterey Park) for a combined contractual purchase price of \$3,057,000. For Santa Fe Springs and Monterey Park, the carrying amount of goodwill was \$748,000 and \$1,297,000, respectively. Consideration related to this business combination was in the form of two interest free promissory notes. The gross amount of the Monterey Park note totaled \$1,920,000 and the gross amount of the Santa Fe Springs note totaled \$1,137,000 (see Note 5).

**4. GOODWILL**

At December 31, 2024, goodwill recorded on the consolidated balance sheets consists of:

Goodwill	\$ 3,642,000
Less: Accumulated amortization	<u>(401,000)</u>
Goodwill, net	<u>\$ 3,241,000</u>

Amortization expense related to goodwill was \$248,000 and \$153,000 for the years ended December 31, 2024 and January 2, 2024, respectively. Amortization expense of goodwill is as follows for the fiscal years ending:

2025	\$ 364,000
2026	364,000
2027	364,000
2028	364,000
2029	364,000
Thereafter	<u>1,421,000</u>
	<u>\$ 3,241,000</u>

**5. NOTES PAYABLE AND DUE FROM AFFILIATE**

During April and May 2023, the Company purchased two of its franchised locations. The Company financed the purchases through two private note payables that totaled \$3,057,000 at the date of the transaction. The notes stated 0% interest. For the years ended December 31, 2024 and January 2, 2024, the Company recorded imputed interest in the amount of \$151,000 and \$113,000, respectively. The debt discount from imputed interest will be amortized over 120 months, the corresponding terms of the notes payable. As of December 31, 2024 the net note payable balance was \$1,924,000 and the current portion of the note payable was \$178,000. As of January 2, 2024 the net note payable balance was \$2,078,000 and the current portion of the note payable was \$166,000. The unamortized portion of the debt discount was \$600,000 and \$751,000 as of December 31, 2024 and January 2, 2024, respectively.

**Shakey's USA, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**  
**December 31, 2024 and January 2, 2024**

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The notes payable mature and future amortization of the debt discount are as follows for the fiscal years ending:

	<u>Principal</u>	<u>Discount</u>	<u>Net</u>
2025	\$ 306,000	\$ (128,000)	\$ 178,000
2026	306,000	(115,000)	191,000
2027	306,000	(102,000)	204,000
2028	306,000	(87,000)	219,000
2029	306,000	(71,000)	235,000
Thereafter	<u>994,000</u>	<u>(97,000)</u>	<u>897,000</u>
	<u>\$ 2,524,000</u>	<u>\$ (600,000)</u>	<u>\$ 1,924,000</u>

**Bank Loan and Due from Affiliate**

The principal loan amount as of December 31, 2024 and January 2, 2024 totaled \$14,200,000 and \$7,359,000, and carried interest rates of 5.375% and 6.375%, respectively. Since the obligation was intended to be an obligation of the parent company, the Company also entered into a compensating agreement with the parent company with identical terms as the parent company will ultimately assume the obligation in the near term. The Company recognized \$832,000 and \$22,000 of interest income and expense during the years ended December 31, 2024 and January 2, 2024, respectively, related to the loan. Of that amount, \$388,000 and \$22,000 was receivable as of December 31, 2024 and January 2, 2024, respectively, and is included in due from affiliate on the accompanying consolidated balance sheets. As the Company expects the legal borrower to be changed back to its parent during the next fiscal year, the entire amount is deemed to be current. The loan will mature on December 13, 2025.

Under the provisions of the credit agreement, certain reporting covenants are required to be met by the Company. For the year ended December 31, 2024, the Company was in compliance with or received a waiver for all such covenants.

**Business Interruption Income**

On March 7, 2024, a fire damaged the Company's Pico Rivera location, a property owned by the Company's parent. The fire caused a temporary interruption of operations at that location, which resulted in lost revenues. The Company has initiated claims on the insured location and recovered business interruption insurance proceeds of \$377,000, which is included in other income within the accompanying consolidated statements of income for the year ended December 31, 2024.

**Shakey's USA, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**  
**December 31, 2024 and January 2, 2024**

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**6. INCOME TAXES**

**Income Tax Provision**

The provision from income taxes for the year ended December 31, 2024 is comprised of the following:

Current	
Federal	\$ 390,000
State	<u>300,000</u>
Total current	<u>690,000</u>
Deferred	
Federal	372,000
State	<u>(235,000)</u>
Total deferred	<u>137,000</u>
Income tax provision	<u>\$ 827,000</u>

The provision for income taxes in the accompanying consolidated financial statements reconciles to the amount computed by applying the federal statutory rate of 21% to the income before income taxes for the year ended December 31, 2024 as follows:

Federal statutory rate	21.00 %
State rate	7.08
Nondeductible/nontaxable items	0.29
Other	<u>(4.16)</u>
Effective tax rate	<u>24.21 %</u>

**Deferred Tax Assets**

Deferred income taxes reflect the net tax effects of tax carry-forwards and temporary differences between the carrying amount of assets and liabilities for tax and financial reporting purposes. At December 31, 2024, the Company's deferred tax assets and liabilities were comprised of the following components:

Deferred tax assets	
Allowance for doubtful accounts	\$ 1,000
Accrued expenses	373,000
Lease liability	7,859,000
Other	70,000
Depreciation	1,257,000
Net operating loss	204,000
Credits	<u>193,000</u>
Deferred tax assets	<u>9,957,000</u>
Deferred tax liabilities	
Right-of-use asset	(7,615,000)
Amortization	<u>(1,680,000)</u>
Deferred tax liabilities	<u>(9,295,000)</u>
Net deferred tax assets	<u>\$ 662,000</u>

**Shakey's USA, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**  
**December 31, 2024 and January 2, 2024**

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The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income and the actual timing within which the underlying temporary differences become taxable or deductible. Current accounting guidance requires that a valuation allowance be established when the “more likely than not” criteria for all or a portion of net deferred tax assets will not be realized. A review of all positive and negative evidence must be considered in determining the need for a valuation allowance. Furthermore, the weight given to the potential effect of such evidence should be commensurate with the extent to which it can be objectively verified. Management periodically evaluates the recoverability of such assets. At such time as it is determined that it is more likely than not that deferred tax assets are realizable, the valuation allowance will be reduced.

As of December 31, 2024, based on the Company's history of earnings and its assessment of future earnings, management believes that it is more likely than not that future taxable income will be sufficient to realize the deferred tax assets. Therefore, no valuation allowance has been applied to deferred tax assets.

Deferred income tax assets primarily related to accrued expenses that will be deductible for tax purposes in the subsequent year, property and equipment, operating lease liabilities and net operating loss carryforwards that can be used to offset future taxable income. Deferred income tax liabilities primarily related to franchising rights and ROU assets. At December 31, 2024, the Company has federal and state loss carryforwards amounting to \$0 and \$2.9 million, respectively, that can be used to offset future taxable income.

If the Company were to experience a Section 382 Ownership Change, an annual limitation would be imposed on certain of the Company's tax attributes, including NOL, and certain other losses, credits, deductions or tax basis.

The Company files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, the Company is subject to examinations by federal, and state and local jurisdictions, where applicable. There are currently no pending tax examinations. The Company's tax years are still open under statute from 2020 to the present in the U.S. To the extent the Company has tax attribute carryforwards, the tax years in which the attribute was generated may still be adjusted upon examination by the Internal Revenue Service and state and local tax authorities to the extent utilized in a future period.

**Accounting for Uncertain Income Tax Positions**

The current accounting guidance prescribes a comprehensive model for how the Company should recognize, measure, present and disclose in its consolidated financial statements uncertain tax positions that the Company has taken or expects to take on a tax return. The unrecognized tax benefits or liability is reviewed annually and adjusted as events occur that affect potential liabilities for additional taxes, such as lapsing of applicable statutes of limitations, proposed assessments by tax authorities, negotiations between tax authorities, identification of new issues, and issuance of new legislation, regulations or case law. As of December 31, 2024, there were no unrecognized tax benefits or liabilities. Management does not anticipate that there will be a material change in the balance of the unrecognized tax benefits or liabilities within the next twelve months.

**7. STOCKHOLDERS' EQUITY**

The Company created a stock-based compensation plan to benefit and advance the interests of the Company by attracting and retaining key employees, consultants and advisors by rewarding them for their contribution to the financial success of the Company and, thereby, motivating them to continue to make such contributions in the future through the granting of stock-based awards.

**Shakey's USA, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**  
**December 31, 2024 and January 2, 2024**

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**Phantom Stock Agreements**

The Company has entered into various Phantom Stock Agreements ("Agreements") with several key executives of the Company. Under the Agreements, the Company will repurchase from a terminating executive the vested portion of the grant at a price equal to the difference in Fair Market Value at the termination date less the Fair Market Value at the grant date (such Fair Market Value as determined in the Agreements.) The Agreements do not have a maximum of units authorized. The Agreements do not have any qualifications of multiples and the individuals do not need to be with the Company to receive their payout. The calculated accrued liability is determined based on the Company's earnings. The corresponding expense is booked each year as the difference in the phantom share liability to the previous year's liability. The Company had no unvested shares at December 31, 2024 and January 2, 2024. There are no amounts to be expensed in future years. During the year ended January 2, 2024 the Agreements were frozen and participants were paid out during January 2024. The grants typically vested at a rate of 20% per year and, as of December 31, 2024, and January 2, 2024 the Company had accrued Phantom Stock liability of \$0 and \$218,000, respectively.

**Treasury Stock**

The Company repurchased 1,778,481 shares of outstanding common stock during the year ended December 31, 2024. The repurchase amount totaled \$7,647,000, of which \$7,193,000 was paid in cash and \$454,000 remained unpaid and is included in other accrued liabilities in the accompanying consolidated balance sheets.

**8. COMMITMENTS AND CONTINGENCIES AND RELATED PARTIES**

**Legal Matters**

During the year ended January 2, 2024, the Company was the defendant in a legal matter brought by a former employee alleging labor code violations. Based on the settlement agreement entered into between the former employee and the Company, the \$750,000 recorded in other accrued liabilities in the accompanying consolidated balance sheets dated January 2, 2024 represents the final amount that has been paid to settle the matter, excluding any attorney fees. The \$750,000 was paid during March 2024.

From time to time, the Company is named in various legal proceedings arising in the ordinary course of business. In management's opinion, all such matters are adequately provided for, covered by insurance or, if not so covered or provided for, are without merit.

**Employee Benefit Plan**

The Company has a 401(k) plan covering substantially all of its employees. The Company makes a matching contribution equal to 25% of the participant's contribution, with a maximum of 25% of 6% of the participant's respective wages. Contribution expense totaled less than \$100,000 for each of the fiscal years ended December 31, 2024 and January 2, 2024.

**Operating Leases**

The Company leases office space under various non-cancelable leases expiring through December 2042. In addition to basic monthly rent, the Company is liable for its proportionate share of property taxes, insurance, and utilities, in addition to the base rental amount. Certain lease agreements also require additional payments based on a percentage of gross sales when it exceeds a predetermined amount. The consolidated statements of income reflect rent expense on a straight-line basis over the term of the lease that is included in operating expenses. Total rent expense for operating leases, which includes common area maintenance charges, amounted to \$7,209,000 and \$6,770,000 for the fiscal years ended December 31, 2024 and January 2, 2024, respectively. Variable lease expense and short-term leases amounted to \$10,000 and \$89,000 for the fiscal years ended December 31, 2024 and January 2, 2024, respectively.

**Shakey's USA, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**  
**December 31, 2024 and January 2, 2024**

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The following is a schedule of future minimum rental payments required under noncancelable operating leases:

2025	\$ 3,543,000
2026	3,343,000
2027	3,316,000
2028	2,769,000
2029	2,384,000
Thereafter	<u>17,592,000</u>
	32,947,000
Less: Imputed interest	<u>(4,864,000)</u>
Lease liability at December 31, 2024	28,083,000
Less: Current portion of lease liability	<u>(2,920,000)</u>
Long-term lease liability at December 31, 2024	<u>\$ 25,163,000</u>

Total rent and common area maintenance charges paid to affiliated companies and partnerships related through common ownership amounted to \$2,877,000 and \$2,971,000 for the fiscal years ended December 31, 2024 and January 2, 2024, respectively.

Cash paid for amounts included in the measurement of operating lease liabilities include operating cash flows from operating leases of \$4,398,000 and \$2,580,000 during the years ended December 31, 2024 and January 2, 2024, respectively. As of December 31, 2024 and January 2, 2024, weighted average remaining lease term for operating leases is 9.32 and 13.68 years, respectively. As of December 31, 2024 and January 2, 2024, weighted-average discount rate for operating leases is 4.27% and 3.34%, respectively. Right-of-use assets obtained or modified in exchange for new or modified leases totaled \$859,000 and \$7,873,000 for the fiscal years ended December 31, 2024 and January 2, 2024, respectively.

**Contracted Advertising Obligations**

The Company's restaurants are subject to franchise agreements, which require the spending of certain amounts of advertising based upon a percentage of sales. Total advertising expense under the franchise agreements amounted to \$2,787,000 and \$2,757,000 for the fiscal years ended December 31, 2024 and January 2, 2024, respectively.

**Related Parties**

The 28 stores operated in California by SCO used the services of Jacmar Foodservice Distribution ("JFD"), a division of The Jacmar Companies, which was sold during May 2024. Total purchases from JFD totaled \$6,029,000 and \$16,475,000 for the fiscal years ended December 31, 2024 and January 2, 2024, respectively. Amounts payable to JFD for purchases of food were \$0 and \$956,000 at December 31, 2024 and January 2, 2024, respectively.

Certain administrative expenses are shared by The Jacmar Companies and the Company. Amounts payable to The Jacmar Companies were \$3,262,000 and \$1,022,000 at December 31, 2024 and January 2, 2024, respectively.

During September 2023, the Company and one of its related party affiliates entered a note receivable agreement for \$3,861,000. The note accrued interest at 6% and the accrued interest as of January 2, 2024 was \$62,000. The total note receivable as of January 2, 2024 was \$3,923,000. The note receivable was collected in February 2024.

**Shakey's USA, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**  
**December 31, 2024 and January 2, 2024**

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During December 2023, the Company's parent company refinanced an existing loan with a new bank. During the refinance process, the Company's name was temporarily added as a borrower. The Company was the legal borrower at December 31, 2024 and January 2, 2024. The consolidated financial statements reflect the bank loan balance due and a receivable due from the parent company (see Note 5).

**Concentration of Credit Risk**

The Company maintains cash accounts at various financial institutions. The accounts are insured by the Federal Deposit Insurance Corporation up to \$250,000 per corporation/owner and per financial institution. The cash accounts, at times, may exceed the federally insured limit. Any loss or lack of access to such funds could have a significant adverse impact on the Company's financial condition, results of operations, and cash flows.

**9. SUBSEQUENT EVENTS**

The Company has evaluated subsequent events through June 30, 2025, which is the date the consolidated financial statements were available to be issued.

The Company closed two franchised locations on January 20, 2025 and February 19, 2025. These closures are not expected to have a material impact on the Company's financial position as of December 31, 2024.

Effective January 1, 2025, the Company transitioned nine company-owned stores from fixed-term leases to month-to-month lease arrangements. The leased properties are owned by the parent company. The lease modification resulted in a reduction of right-of-use assets and operating lease liabilities and has been adjusted accordingly in the consolidated financial statements.

**SHAKEY'S USA, INC. AND SUBSIDIARIES**  
**Consolidated Financial Statements**  
**January 2, 2024 and January 3, 2023**  
**With Independent Auditor's Report**

**Shakey's USA, Inc. and Subsidiaries**  
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## INDEPENDENT AUDITOR'S REPORT

To the Board of Directors of  
Shakey's USA, Inc. and Subsidiaries:

### Opinion

We have audited the consolidated financial statements of Shakey's USA, Inc. and Subsidiaries (the "Company"), which comprise the consolidated balance sheets as of January 2, 2024 and January 3, 2023, the related consolidated statements of income, shareholders' equity and cash flows for the years then ended, and the related notes to the consolidated financial statements.

In our opinion, the accompanying consolidated financial statements present fairly, in all material respects, the financial position of the Company as of January 2, 2024 and January 3, 2023, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

### Basis of Opinion

We conducted our audits 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 Financial Statements 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 audits. 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 Consolidated Financial Statements

Management is responsible for the preparation and fair presentation of the consolidated financial statements 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 consolidated financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the consolidated financial statements, 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 consolidated financial statements are available to be issued.

### Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the consolidated financial statements as a whole are 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 consolidated financial statements.

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 consolidated financial statements, 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 consolidated financial statements.
- 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 consolidated financial statements.
- 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.

*Withum Smith + Brown, PC*

May 6, 2024

**Shakey's USA, Inc. and Subsidiaries**  
**Consolidated Balance Sheets**  
**January 2, 2024 and January 3, 2023**

	<u>January 2, 2024</u>	<u>January 3, 2023</u>
<b>Assets</b>		
Current assets		
Cash and cash equivalents	\$ 11,247,000	\$ 6,165,000
Restricted cash	583,000	440,000
Accounts receivable (net of allowance for doubtful accounts of \$5,000 and \$5,000, respectively)	830,000	5,795,000
Inventory of food and beverages	370,000	368,000
Note receivable, affiliates	3,923,000	-
Prepaid expenses and other current assets	<u>1,029,000</u>	<u>387,000</u>
Total current assets	<u>17,982,000</u>	<u>13,155,000</u>
Property and equipment, at cost		
Buildings	61,000	61,000
Equipment and furnishings	13,961,000	13,378,000
Leasehold improvements	20,871,000	20,674,000
Construction in process	<u>79,000</u>	<u>5,000</u>
	34,972,000	34,118,000
Accumulated depreciation and amortization	<u>29,686,000</u>	<u>28,294,000</u>
Net property and equipment	<u>5,286,000</u>	<u>5,824,000</u>
Other assets		
Right of use assets	41,227,000	37,516,000
Franchising rights	6,862,000	6,862,000
Goodwill, net	1,892,000	-
Other intangible assets	403,000	403,000
Deferred income taxes	799,000	1,619,000
Other assets	<u>138,000</u>	<u>97,000</u>
Total other assets	<u>51,321,000</u>	<u>46,497,000</u>
Total assets	<u>\$ 74,589,000</u>	<u>\$ 65,476,000</u>

The Notes to Financial Statements are an integral part of these statements.

**Shakey's USA, Inc. and Subsidiaries**  
**Consolidated Balance Sheets**  
**January 2, 2024 and January 3, 2023**

	<u>January 2,</u> <u>2024</u>	<u>January 3,</u> <u>2023</u>
<b>Liabilities and Stockholders' Equity</b>		
Current liabilities		
Accounts payable	\$ 379,000	\$ 324,000
Accounts payable, affiliates	1,967,000	961,000
Accrued salaries and wages	2,581,000	2,858,000
Other accrued liabilities	2,434,000	2,464,000
Dividend payable	-	133,000
Advertising fund liability	730,000	527,000
Operating lease liability, current portion	3,947,000	3,499,000
Note payable, current portion	166,000	-
Total current liabilities	<u>12,204,000</u>	<u>10,766,000</u>
Operating lease liability, net of current portion	37,964,000	34,535,000
Note payable, net of current portion and discount of \$751,000	1,912,000	-
Total noncurrent liabilities	<u>39,876,000</u>	<u>34,535,000</u>
Total liabilities	<u>52,080,000</u>	<u>45,301,000</u>
<b>Commitments and Contingencies</b>		
Stockholders' equity		
Common stock, \$0.0001 par value, 15,000,000 shares authorized, 7,172,631 and 7,172,631 shares issued and outstanding	1,000	1,000
Additional paid-in capital	22,606,000	22,606,000
Accumulated income (deficit)	<u>(98,000)</u>	<u>(2,432,000)</u>
Total stockholders' equity	<u>22,509,000</u>	<u>20,175,000</u>
Total liabilities and stockholders' equity	<u>\$ 74,589,000</u>	<u>\$ 65,476,000</u>

The Notes to Financial Statements are an integral part of these statements.

**Shakey's USA, Inc. and Subsidiaries**  
**Consolidated Statements of Income**  
**Years Ended January 2, 2024 and January 3, 2024**

	<u>January 2, 2024</u>	<u>January 3, 2023</u>
<b>Revenue and income</b>		
Sales of food and beverages	\$ 63,185,000	\$ 55,756,000
Game income	6,666,000	6,011,000
Royalty income	1,659,000	1,590,000
Advertising fund contributions	808,000	748,000
Grant income	115,000	1,206,000
Other income	<u>646,000</u>	<u>478,000</u>
Total revenue and income	<u>73,079,000</u>	<u>65,789,000</u>
<b>Expenses</b>		
Cost of sales - food and beverages	19,021,000	16,392,000
Cost of sales - game	1,009,000	1,225,000
Advertising fund expense	808,000	748,000
Operating expenses	39,253,000	35,358,000
General and administrative expenses	7,980,000	8,133,000
Depreciation and amortization	1,598,000	1,585,000
Interest expense	<u>134,000</u>	<u>-</u>
Total expenses	<u>69,803,000</u>	<u>63,441,000</u>
Income before income tax expense	<u>3,276,000</u>	<u>2,348,000</u>
<b>Income tax (expense)</b>		
Current income tax	(54,000)	(46,000)
Deferred income tax	<u>(888,000)</u>	<u>(483,000)</u>
Total income tax (expense)	<u>(942,000)</u>	<u>(529,000)</u>
<b>Net income</b>	<u>\$ 2,334,000</u>	<u>\$ 1,819,000</u>

The Notes to Financial Statements are an integral part of these statements.

**Shakey's USA, Inc. and Subsidiaries**  
**Consolidated Statements of Stockholders' Equity**  
**Years Ended January 2, 2024 and January 3, 2023**

	<u>Common Stock</u>		<u>Additional Paid-In Capital</u>	<u>Accumulated Earnings/ (Deficit)</u>	<u>Total</u>
	<u>Shares</u>	<u>Amount</u>			
<b>Balance at January 4, 2022</b>	7,172,631	\$ 1,000	\$ 22,606,000	\$ (4,221,000)	\$ 18,386,000
Net income	-	-	-	1,819,000	1,819,000
Dividends	-	-	-	(30,000)	(30,000)
<b>Balance at January 3, 2023</b>	7,172,631	1,000	22,606,000	(2,432,000)	20,175,000
Net income	-	-	-	2,334,000	2,334,000
<b>Balance at January 2, 2024</b>	<u>7,172,631</u>	<u>\$ 1,000</u>	<u>\$ 22,606,000</u>	<u>\$ (98,000)</u>	<u>\$ 22,509,000</u>

The Notes to Consolidated Financial Statements are an integral part of these statements.

**Shakey's USA, Inc. and Subsidiaries**  
**Consolidated Statements of Cash Flows**  
**Years Ended January 2, 2024 and January 3, 2023**

	<u>January 2, 2024</u>	<u>January 3, 2023</u>
<b>Operating activities</b>		
Net income	\$ 2,334,000	\$ 1,819,000
Adjustments to reconcile net income to net cash provided by operating activities		
Depreciation of property and equipment	1,445,000	1,585,000
Gain on sale of assets	41,000	180,245
Provision for doubtful accounts	-	(65,354)
Provision for inventory obsolescence	-	170,205
Amortization of ROU asset	2,746,000	3,732,000
Amortization of goodwill	153,000	-
Amortization of debt discount	112,000	-
Deferred income taxes	820,000	483,000
Changes in assets and liabilities		
Accounts receivable	4,965,000	(1,403,646)
Inventory of food and beverages	(2,000)	(47,205)
Activity on note receivable, affiliates	(3,923,000)	-
Prepaid expenses and other current assets	(642,000)	399,000
Other assets	109,000	-
Accounts payable	55,000	(19,000)
Accounts payable, affiliates	1,006,000	(20,000)
Accrued salaries and wages	(277,000)	(4,286,000)
Operating lease liability	(2,580,000)	(3,573,000)
Other accrued liabilities	(30,000)	1,236,000
Advertising fund liability	203,000	101,000
Net cash provided by operating activities	<u>6,535,000</u>	<u>291,245</u>
<b>Investing activities</b>		
Payments for purchases of property and equipment	<u>(948,000)</u>	<u>(585,245)</u>
Net cash used in investing activities	<u>(948,000)</u>	<u>(585,245)</u>
<b>Financing activities</b>		
Repayments on note payable	(229,000)	-
Payment of dividends	<u>(133,000)</u>	<u>(6,897,000)</u>
Net cash used in financing activities	<u>(362,000)</u>	<u>(6,897,000)</u>
Net change in cash	5,225,000	(7,191,000)
<b>Cash, cash equivalents and restricted cash</b>		
Beginning of year	<u>6,605,000</u>	<u>13,796,000</u>
End of year	<u>\$ 11,830,000</u>	<u>\$ 6,605,000</u>

The Notes to Consolidated Financial Statements are an integral part of these statements.

**Shakey's USA, Inc. and Subsidiaries**  
**Consolidated Statements of Cash Flows**  
**Years Ended January 2, 2024 and January 3, 2023**

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	<u>January 2, 2024</u>	<u>January 3, 2023</u>
<b>Supplemental disclosure of cash flow information</b>		
Cash paid during the year for		
Interest	\$ 134,000	\$ -
Income taxes	\$ 54,000	\$ 30,963
<b>Non-cash investing and financing activities</b>		
Purchase of restaurants with notes payable	\$ 2,194,000	\$ -
Dividend declared and not paid	\$ -	\$ 30,000
<b>Reconciliation of cash, cash equivalents and restricted cash to the balance sheets</b>		
Cash and cash equivalents	\$ 11,247,000	\$ 6,165,000
Restricted cash	583,000	440,000
Cash, cash equivalents and restricted cash	<u>\$ 11,830,000</u>	<u>\$ 6,605,000</u>

The Notes to Consolidated Financial Statements are an integral part of these statements.

# Shakey's USA, Inc. and Subsidiaries

## Notes to Consolidated Financial Statements

### January 2, 2024 and January 3 2023

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#### 1. THE COMPANY

Shakey's USA, Inc. ("SUSA") is engaged in franchising Shakey's Restaurants in the United States of America. Currently there are 21 franchised Shakey's Restaurants operating in the United States. SCO, LLC ("SCO"), the subsidiary of SUSA, currently operates the 26 Shakey's restaurants in California.

#### 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

##### Fiscal Year End

SUSA has adopted a fiscal year end on a fifty-two (52) - fifty-three (53) week basis that ends on the first Tuesday after December 30th of each year. Accordingly, there will be fifty-three weeks approximately every fifth year. The current fiscal year, which ended January 2, 2024, is a fifty-three-week year.

##### Principles of Consolidation

The accompanying consolidated financial statements include the accounts of SUSA and its subsidiary ("the Company"). All significant inter-company transactions and balances have been eliminated in consolidation.

##### Revenue Recognition

The Company's revenues include sales by Company-operated restaurants, game income from Company-operated restaurants, franchise fee income from franchisees and royalty income from restaurants operated by franchisees. The Company recognizes revenue in accordance with Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") Topic 606, which requires an entity to recognize revenue to depict the transfer of goods or services to customers in an amount that reflects consideration to which an entity expects to be entitled in exchange for those goods or services. Revenue from Company-operated restaurants is recognized when payment is tendered at the point of sale. Royalties from restaurants operated by franchisees, are based on a percent of sales and recognized at the time the underlying sales occur. Initial franchise fees have been recognized as the Company satisfies the performance obligation over the franchise term, which is generally 10 years. Game revenues are recognized as tokens are purchased by customers.

The Company collects and administers funds contributed for use in advertising and promotional programs designed to increase sales and enhance the reputation of the Company and its franchise owners. Contributions from the franchisees to the advertising funds are required for both Company operated and franchise restaurants and are generally based on a percentage of restaurant sales. The Company controls and consolidates the advertising fund contributions in the consolidated financial statements. The Company is required to account for these advertising fund contributions separately from other cash on hand and cannot use these advertising fund contributions for general operating purposes. Under FASB Accounting Standards Codification Accounting Standards Update ("ASU") No. 2014-09, *Revenue from Contracts with Customers* (Topic 606), the Company has determined that it acts as the principal under this arrangement as it is primarily responsible for the fulfillment and control of the marketing services. Accordingly, the Company records advertising fund contributions in revenue and the related advertising fees expenditures in expense in the consolidated statements of income.

In determining the appropriate amount of revenue to be recognized as it fulfills its obligations under its arrangements, the Company performs the following steps (i) identify contracts with customers; (ii) identify performance obligations; (iii) determine the transaction price; (iv) allocation of the transaction price to the performance obligations; and (v) recognition of revenue when (or as) the Company satisfies each performance obligation. A performance obligation is defined as a promise in a contract to transfer a distinct good or service to the customer and is the unit of accounting in Topic 606. Accounts receivable and deferred revenues at January 5, 2022 were \$4,326,000 and \$44,000, respectively.

# Shakey's USA, Inc. and Subsidiaries

## Notes to Consolidated Financial Statements

### January 2, 2024 and January 3 2023

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#### **Recent Accounting Pronouncement**

The Company provides an allowance for doubtful accounts equal to the estimated uncollectible amounts pursuant to the guidance of Accounting Standards Update ("ASU") 2016-13, Financial Instruments - Credit Losses ("ASC 326"). Under ASC 326, the Company utilizes a current and expected credit loss ("CECL") impairment model. ASU 2016-13 became effective for the Company on January 4, 2023. The Company adopted the new standard using the modified retrospective approach. There was no cumulative effect of applying ASU 2016-13 and accordingly there was no adjustment to retained earnings upon adoption.

#### **Leases**

The Company categorizes leases with contractual terms longer than 12 months as either operating or financing. Finance leases are generally those that allow the Company to substantially utilize or pay for the entire asset over its estimated life. All other leases are categorized as operating leases. Leases with contractual terms of 12 months or less are not recorded on the balance sheet. The Company had 14 operating leases as of and for the year ended January 2, 2024.

Certain lease contracts include obligations to pay for other services, such as operations, property taxes, and maintenance. The services are accounted for separately and the Company allocates payments to the leases and other service components based on estimated stand-alone prices.

Lease liabilities are recognized at the present value of the fixed lease payments, reduced by landlord incentives, using a discount rate based on the risk-free rate. ROU assets are recognized based on the initial present value of the fixed lease payments, reduced by landlord incentives, plus any direct costs from executing the leases. Lease assets are tested for impairment in the same manner as long-lived assets used in operations.

Options to extend lease terms, terminate leases before the contractual expiration date, or purchase the leased assets, are evaluated for their likelihood of exercise. If it is reasonably certain that the option will be exercised, the option is considered in determining the classification and measurement of the lease.

Costs associated with operating lease assets are recognized on a straight-line basis within operating expenses over the term of the lease.

#### **Stock-Based Compensation**

The Company accounts for stock-based compensation in accordance with guidance issued by the FASB, which requires the measurement and recognition of compensation expense for all stock based payment awards made to employees based on the estimated grant date fair value of the award. The value of the portion of the award that is ultimately expected to vest is recognized as expense over the requisite service periods in the Company's consolidated statements of income.

#### **Fair Value of Financial Instruments**

The Company measures its financial assets and liabilities at fair value. Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (i.e., exit price) in an orderly transaction between market participants at the measurement date. Additionally, the Company is required to provide disclosure and categorize assets and liabilities measured at fair value into one of three different levels depending on the assumptions (i.e., inputs) used in the valuation. Level 1 provides the most reliable measure of fair value, while Level 3 generally requires significant management judgment. Financial assets and liabilities are classified in their entirety based on the lowest level of input significant to the fair value measurement. The fair value hierarchy is defined as follows:

**Shakey’s USA, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**  
**January 2, 2024 and January 3 2023**

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*Level 1* - Valuations are based on unadjusted quoted prices in active markets for identical assets or liabilities.

*Level 2* - Valuations are based on quoted prices for similar assets or liabilities in active markets, or quoted prices in markets that are not active for which significant inputs are observable, either directly or indirectly.

*Level 3* - Valuations are based on prices or valuation techniques that require inputs that are both unobservable and significant to the overall fair value measurement. Inputs reflect management’s best estimate of what market participants would use in valuing the asset or liability at the measurement date.

The following table summarizes fair value measurements at January 2, 2024 and January 3, 2023 for assets and liabilities measured at fair value on a recurring basis:

	<b>2024</b>			
	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total</u>
Phantom stock	\$ -	\$ -	\$ 218,000	\$ 218,000
	<b>2023</b>			
	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total</u>
Phantom stock	\$ -	\$ -	\$ 218,000	\$ 218,000

During the year ended January 2, 2024, the phantom stock did not increase in value as the Company froze the plan during the year ended January 3, 2023. The plan officially terminated and paid out during January 2024.

During the year ended January 3, 2023, the phantom stock increased in value by \$59,000 and the Company made no payments to the participants.

The carrying amount of the Company’s financial instruments, including accounts receivable, accounts payable and accrued and other current liabilities, approximates fair value due to their short-term nature.

**Impairment of Long-Lived Assets**

The Company reviews its long-lived assets for impairment in accordance with FASB Accounting Standards Codification Topic 350, *Intangibles - Goodwill and Others*, whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of the assets to future net cash flows expected to be generated by the assets. If the assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount exceeds the fair value of the assets. No impairment loss was recorded during the fiscal years ended January 2, 2024 and January 3, 2023 related to long-lived assets. During the year ended January 3, 2023, the Company wrote off \$1,429,000 of previously impaired assets with a net book value of \$0.

**Shakey's USA, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**  
**January 2, 2024 and January 3 2023**

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**Allowance for Doubtful Accounts**

The Company extends credit to customers based on the size of the customer, its payment history, and other factors. The Company generally does not require collateral to support customer receivables. The Company's estimate is based on historical collection experience, analysis of forward-looking industry, customer and economic trends and factors and a review of the current status of trade accounts receivable. It is reasonably possible that the Company's estimate of the allowance for doubtful accounts will change. Accounts receivable are presented net of an allowance for doubtful accounts of \$5,000 at January 2, 2024.

**Cash and Cash Equivalents**

The Company considers all highly liquid financial instruments with maturities of three months or less to be cash equivalents.

**Restricted Cash**

Restricted cash consists of contributions received from both Company operated and franchise restaurants for the sole purpose of advertising and development and are not available for general operating purposes.

**Inventory**

Inventory consists of food, beverages, restaurant supplies and is valued at the lower of cost or net realizable value, cost being determined by the first-in, first-out method.

**Property and Equipment**

Property and equipment are stated at cost less accumulated depreciation. Depreciation of buildings and equipment and furnishings is computed on the straight-line basis over the estimated useful lives of the assets as follows:

<u>Description</u>	<u>Estimated Life (Years)</u>
Buildings	15
Equipment and furnishings	3-7

Leasehold improvements are amortized on the straight-line basis over the shorter of the life of the asset or the lease.

Upon the disposition of an asset, its accumulated depreciation is deducted from the original cost, and any gain or loss is reflected in current earnings. Repairs and maintenance that do not enhance the use or extend the life of property and equipment are expensed as incurred. Depreciation expense for the fiscal years ended January 2, 2024 and January 3, 2023 was \$1,445,000 and \$1,585,000, respectively.

**Use of Estimates**

The preparation of consolidated financial statements 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, liabilities, revenues and expenses during the reporting period. Management estimates include the useful lives of property and equipment, the allowance for doubtful accounts, the allowance for inventory obsolescence, the liability for stock appreciation rights, impairment of intangible assets and the deferred income tax valuation allowance. Management uses its historical records and knowledge of its business in making these estimates. Actual results could differ from these estimates.

**Shakey's USA, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**  
**January 2, 2024 and January 3 2023**

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**Income Taxes**

The Company recognizes deferred tax liabilities and assets based on the differences between the financial statement carrying amounts and the tax bases of assets and liabilities using enacted tax rates in effect in the years the differences are expected to reverse. Deferred income tax benefit or expense results from the change in net deferred tax assets and liabilities. A valuation allowance is recorded when it is more likely than not that some or all deferred tax assets will not be realized.

The Company accounts for uncertain tax positions using a comprehensive model to recognize, measure, present and disclose in its consolidated financial statements uncertain tax positions that the Company has taken or expects to take on a tax return.

**Advertising Costs**

Advertising costs are expensed as incurred and totaled \$2,951,000 and \$2,585,000 for the fiscal years ended January 2, 2024, and January 3, 2023, respectively.

**Franchising Rights**

Franchising rights consist of exclusive rights (trademark/brand) to license stores as Shakey's restaurants. These assets have indefinite useful lives due to the expected use of these rights and the lack of legal, regulatory, contractual, competitive, economic or other factors that may limit their useful lives.

These rights have no expiration date and can be renewed indefinitely for a nominal amount; therefore franchising rights are not amortized. However, they are subject to an annual impairment test. No impairment loss was recorded during the fiscal years ended January 2, 2024 and January 3, 2023 related to franchising rights.

**Intangible Assets**

Intangible assets consisted of trademarks. Trademarks can be renewed indefinitely for a nominal amount; therefore, trademarks are not amortized. However, they are subject to an annual impairment test. No impairment loss was recorded during the fiscal years ended January 2, 2024 and January 3, 2023 related to trademarks.

**Goodwill**

Goodwill represents the excess of cost over the fair value of tangible net assets and identifiable intangible assets acquired in a business acquisition. Goodwill is amortized using the straight-line method over 10-year period in accordance with the Private Company GAAP alternative issued by the Financial Accounting Standards Board Private Company Council. The Company also follows the private company accounting alternative to subsume customer related intangibles and noncompete agreements into goodwill. For the year ended January 2, 2024, the amortization expense related to goodwill was \$153,000.

**Subsequent Events**

Subsequent to year end , the Company made an offer to purchase for cash up to \$1,966,600 shares of outstanding common stock of Shakey's USA, Inc. at \$4.30 per share by Shakey's USA Inc. As of the date of the report, the Company has not finalized how many shares have been purchased and how many remain outstanding. The Company has also not determined the ultimate disposition of outstanding shares.

The Company has considered subsequent events through May 6, 2024, the date the consolidated financial statements were available to be issued, in preparing the consolidated financial statements and notes thereto.

**Shakey's USA, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**  
**January 2, 2024 and January 3 2023**

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**3. ACQUISITION OF RESTAURANTS AND GOODWILL**

On April 20, 2023, for Santa Fe Springs and May 10, 2023, for Monterey Park, the Company recorded an acquisition as a business combination. As a result of the acquisition, the Company increased the number of their Company owned Shakey's restaurants by two. The business combination was transacted as part of an asset purchase agreement, the Company purchased two Shakey's restaurants that were formerly franchised in California (Monterey Park and Santa Fe Springs) from one franchisee (Sterling Foods, Inc.) for a combined contractual purchase price of \$3,057,000.

For Monterey Park and Santa Fe Springs, the carrying amount of goodwill was \$1,297,000 and \$748,000, respectively, which totaled \$2,045,000. Goodwill is amortized using the straight-line method over a 10-year period. Goodwill arising from the acquisition consists largely from the synergies and economies of scale related in addition to maintaining the brand recognition and Shakey's name. The goodwill recognized is expected to be deductible for income tax purposes.

Consideration related to the business combination was in the form of two interest free promissory notes. The gross amount of the Monterey Park note totaled \$1,920,000 and the gross amount of the Santa Fe Springs note totaled \$1,137,600. The Company has imputed interest on the promissory notes in a combined amount of \$863,000 (See Note 4). Imputed interest for Monterey Park and Santa Fe Springs totaled \$542,000 and \$321,000, respectively. The combined discounted purchase price of Monterey Park and Santa Fe Springs equaled \$1,378,000 and \$816,000, respectively, which totaled \$2,194,000.

For Monterey Park, the transaction and fair value of the assets recorded, consisted of inventory of \$21,000, liquor license of \$2,000, furniture and equipment of \$58,000 and goodwill of \$1,297,000. For Santa Fe Springs, the transaction and fair value of the assets recorded, consisted of inventory of \$14,000, liquor license of \$2,000, furniture and equipment of \$52,000 and goodwill of \$748,000. The accumulated amortization expense for Monterey Park and Santa Fe Springs goodwill, was \$97,000 and \$56,000, respectively, which totaled \$153,000.

Amortization expense of goodwill is as follows for the fiscal years ending:

2024	\$	204,000
2025		204,000
2026		204,000
2027		204,000
2028		204,000
Thereafter		872,000
	\$	<u>1,892,000</u>

**4. NOTES PAYABLE**

During April 2023, the Company purchased two of its franchised locations. The Company financed the purchases through two private note payables that totaled \$3,057,000 at the date of the transaction. The notes stated 0% interest. As a result, the Company has imputed interest in the amounts of \$863,000 at the date of the transaction. The debt discount from imputed interest will be amortized over 120 months, the corresponding terms of the notes payable. As of January 2, 2024 the net note payable balance was \$2,078,000 and the current portion of the note payable was \$166,000. The unamortized portion of the debt discount was \$751,000 as of January 2, 2024.

**Shakey's USA, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**  
**January 2, 2024 and January 3 2023**

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The notes payable mature and future amortization of the debt discount are as follows for the fiscal year ending:

	<u>Principal</u>	<u>Discount</u>	<u>Net</u>
2024	\$ 306,000	\$ (140,000)	\$ 166,000
2025	306,000	(128,000)	178,000
2026	306,000	(115,000)	191,000
2027	306,000	(102,000)	204,000
2028	306,000	(87,000)	219,000
Thereafter	<u>1,299,000</u>	<u>(179,000)</u>	<u>1,120,000</u>
	<u>\$ 2,829,000</u>	<u>\$ (751,000)</u>	<u>\$ 2,078,000</u>

**5. INCOME TAXES**

**Income Tax Provision**

The provision from income taxes for the year ended January 2, 2024 is comprised of the following:

**Current**

Federal	\$ 53,000
State	<u>1,000</u>
Total current	<u>54,000</u>

**Deferred**

Federal	\$ 559,000
State	<u>329,000</u>
Total deferred	<u>888,000</u>
Income tax provision	<u>\$ 942,000</u>

The provision for (benefit from) income taxes in the accompanying consolidated financial statements reconciles to the amount computed by applying the federal statutory rate of 21% to the income before income taxes for the year ended January 2, 2024, as follows:

Federal statutory rate	21.00 %
State rate	7.01 %
Nondeductible/nontaxable items	0.02 %
Other	<u>0.12 %</u>
Effective tax rate	<u>28.15 %</u>

**Shakey's USA, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**  
**January 2, 2024 and January 3 2023**

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**Deferred Tax Assets**

Deferred income taxes reflect the net tax effects of tax carry-forwards and temporary differences between the carrying amount of assets and liabilities for tax and financial reporting purposes. At January 2, 2024, the Company's deferred tax assets and liabilities were comprised of the following components:

**Deferred tax assets**

Allowance for doubtful accounts	\$ 1,000
Accrued expenses	179,000
Lease liability	11,728,000
Other	72,000
Depreciation	1,386,000
Net operating loss	524,000
Credits	<u>198,000</u>
Gross deferred tax assets	14,088,000
Less: Valuation allowance	<u>-</u>
Deferred tax assets	<u>14,088,000</u>

**Deferred tax liabilities**

Right-of-use asset	(11,537,000)
Amortization	<u>(1,752,000)</u>
Gross deferred tax liabilities	<u>(13,289,000)</u>
Net deferred tax assets (liabilities)	<u>\$ 799,000</u>

The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income and the actual timing within which the underlying temporary differences become taxable or deductible. Current accounting guidance requires that a valuation allowance be established when the "more likely than not" criteria for all or a portion of net deferred tax assets will not be realized. A review of all positive and negative evidence must be considered in determining the need for a valuation allowance. Furthermore, the weight given to the potential effect of such evidence should be commensurate with the extent to which it can be objectively verified. Management periodically evaluates the recoverability of such assets. At such time as it is determined that it is more likely than not that deferred tax assets are realizable, the valuation allowance will be reduced.

As of January 2, 2024, based on the Company's history of earnings and its assessment of future earnings, management believes that it is more likely than not that future taxable income will be sufficient to realize the deferred tax assets. Therefore, no valuation allowance has been applied to deferred tax assets.

Deferred income tax assets primarily related to accrued expenses that will be deductible for tax purposes in the subsequent year, property and equipment, operating lease liabilities and net operating loss carryforwards that can be used to offset future taxable income. Deferred income tax liabilities primarily related to franchising rights and ROU assets. At January 2, 2024, the Company has federal and state loss carryforwards amounting to \$1.6 million and \$2.7 million, respectively (expiring through 2040) that can be used to offset future taxable income.

If the Company were to experience a Section 382 Ownership Change, an annual limitation would be imposed on certain of the Company's tax attributes, including NOL, and certain other losses, credits, deductions or tax basis.

**Shakey's USA, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**  
**January 2, 2024 and January 3 2023**

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The Company files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, the Company is subject to examinations by federal, and state and local jurisdictions, where applicable. There are currently no pending tax examinations. The Company's tax years are still open under statute from 2020 to the present in the US. To the extent the Company has tax attribute carryforwards, the tax years in which the attribute was generated may still be adjusted upon examination by the Internal Revenue Service and state and local tax authorities to the extent utilized in a future period.

**Accounting for Uncertain Income Tax Positions**

The current accounting guidance prescribes a comprehensive model for how a company should recognize, measure, present and disclose in its consolidated financial statements uncertain tax positions that the Company has taken or expects to take on a tax return. The unrecognized tax benefits or liability is reviewed annually and adjusted as events occur that affect potential liabilities for additional taxes, such as lapsing of applicable statutes of limitations, proposed assessments by tax authorities, negotiations between tax authorities, identification of new issues, and issuance of new legislation, regulations or case law. As of January 2, 2024, there were no unrecognized tax benefits or liabilities. Management does not anticipate that there will be a material change in the balance of the unrecognized tax benefits or liabilities within the next twelve months.

**6. STOCKHOLDERS' EQUITY**

The Company created stock-based compensation plans to benefit and advance the interests of the Company by attracting and retaining key employees, consultants and advisors by rewarding them for their contribution to the financial success of the Company and, thereby, motivating them to continue to make such contributions in the future through the granting of stock-based awards.

**Stock Appreciation Rights**

During 2016, the Company adopted the Shakey's USA, Inc. 2016 Stock Appreciation Right Plan (the "SAR Plan"). A stock appreciation right provides the participant with the right to a lump sum cash payment equal to the appreciation between the grant date base price and fair market value as determined by the Company (as defined in the SAR Plan).

The SAR Plan provided for the granting of up to 1,500,000 time-based stock appreciation rights. Time-based stock appreciation rights generally vest over a four-year period. Upon a change of control event, all outstanding stock appreciation rights shall become fully vested and exercisable to the participant. If any rights were fully vested and a forfeiture occurred, during the next valuation, the Company would reassess the SAR Plan and any difference would be recorded to expense. The Company has elected to record forfeitures as they occur. As of January 3, 2023 there had been no forfeitures.

The Company estimated the fair value of stock appreciation rights at intrinsic value, as allowable under the guidance issued by the FASB for nonpublic companies. Intrinsic value represents the positive difference between the fair value of the Company's stock and the grant date base price of the underlying awards.

As of January 3, 2023, the compensation cost recognized was \$1,175,000, which represented the change in intrinsic value.

As of January 4, 2022, the Company had accrued a SAR Plan liability of \$4,340,000. On December 20, 2022, the fair value of the then outstanding SAR awards was paid to all SAR Plan participants. As of January 3, 2023, the Company's SAR Plan has been dissolved and all participants have been paid in accordance with the agreement.

**Shakey's USA, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**  
**January 2, 2024 and January 3 2023**

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Per the terms of the SAR Plan agreement and as a result of the dissolution, no future expense is to be recognized.

**Phantom Stock Agreements**

The Company has entered into various Phantom Stock Agreements ("Agreements") with several key executives of the Company. Under the Agreements, the Company will repurchase from a terminating executive the vested portion of the grant at a price equal to the difference in Fair Market Value at the termination date less the Fair Market Value at the grant date (such Fair Market Value as determined in the Agreements.) The Agreements do not have a maximum of units authorized. The Agreements do not have any qualifications of multiples and the individuals do not need to be with the Company to receive their payout. The calculated accrued liability is determined based on the Company's earnings. The corresponding expense is booked each year as the difference in the phantom share liability to the previous year's liability. The grants typically vest at a rate of 20% per year and, as of January 2, 2024, and January 3, 2023 the Company had accrued Phantom Stock liability of \$218,000. The Company had no unvested shares at January 2, 2024 and January 3, 2023. There are no amounts to be expensed in future years. During the year ended January 3, 2023 the Agreements were frozen and participants were paid out during January 2024.

**Dividend Declaration**

The Board of Directors of the Company approved certain dividends in prior fiscal years. As of January 3, 2023, amounts payable on the accompanying consolidated balance sheet were \$133,000. All amounts have been paid subsequent to January 3, 2023. No dividends were declared as of January 2, 2024.

**7. COMMITMENTS AND CONTINGENCIES AND RELATED PARTIES**

**Legal Matters**

The Company was the defendant in a legal matter brought by a former employee alleging labor code violations. Based on the settlement agreement entered into between the former employee and the Company, the \$750,000 has been recorded in Other Accrued Liabilities in the accompanying consolidated balance sheets, represents the final amount that has been paid to settle the matter, excluding any attorney fees. The \$750,000 was paid during March 2024.

From time to time, the Company is named in various legal proceedings arising in the ordinary course of business. In management's opinion, all such matters are adequately provided for, covered by insurance or, if not so covered or provided for, are without merit.

**Employee Benefit Plan**

The Company has a 401(k) Plan covering substantially all of its employees. The Company makes a matching contribution equal to 25% of the participant's contribution, with a maximum of 25% of 6% of the participant's respective wages. Contribution expense totaled less than \$100,000 for each of the fiscal years ended January 2, 2024 and January 3, 2024.

**Operating Leases**

The Company leases office space under various non-cancelable leases expiring through December 2042. In addition to basic monthly rent, the Company is liable for its proportionate share of property taxes, insurance, and utilities, in addition to the base rental amount. Certain lease agreements also require additional payments based on a percentage of gross sales when it exceeds a predetermined amount. The statement of income reflects rent expense on a straight line basis over the term of the lease and is included in operating expenses. Total rent expense for operating leases, which includes common area maintenance charges, amounted to \$6,770,00 and \$6,507,000 for the fiscal years ended January 2, 2024 and January 3, 2023, respectively. Variable lease expense and short term leases amounted to \$89,000 and \$368,000 for the fiscal years ended January 2, 2024 and January 3, 2023, respectively.

**Shakey's USA, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**  
**January 2, 2024 and January 3 2023**

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The following is a schedule of future minimum rental payments required under noncancelable operating leases:

2024	\$ 4,743,000
2025	4,532,000
2026	4,329,000
2027	4,301,000
2028	3,751,000
Thereafter	<u>26,556,000</u>
	48,212,000
Less: Imputed interest	<u>(6,301,000)</u>
Lease liability at January 2, 2024	41,911,000
Less: Current portion of lease liability	<u>(3,947,000)</u>
Long-term lease liability at January 2, 2024	<u>\$ 37,964,000</u>

Total rent and common area maintenance charges paid to affiliated companies and partnerships related through common ownership amounted to \$2,971,000 and \$2,766,000 for the fiscal years ended January 2, 2024 and January 3, 2023, respectively.

Cash paid for amounts included in the measurement of operating lease liabilities include operating cash flows from operating leases of \$2,580,000 and \$3,573,000 during the year ended January 2, 2024 and January 3, 2023, respectively. As of January 2, 2024 and January 3, 2023, respectively, weighted average remaining lease term for operating leases is 13.68 and 24.63 years, respectively. As of January 2, 2024 and January 3, 2024, respectively, weighted-average discount rate for operating leases is 3.34% and 2.88%, respectively. Right of use assets obtained or modified in exchange for new or modified leases totaled \$7,873,000 and \$0 for the fiscal years ended January 2, 2024 and January 3, 2023, respectively.

**Contracted Advertising Obligations**

The Company's restaurants are subject to franchise agreements, which require the spending of certain amounts of advertising based upon a percentage of sales. Total advertising expense under the franchise agreements amounted to \$2,757,000 and \$2,449,000 for the fiscal years ended January 2, 2024 and January 3, 2023, respectively.

**Related Parties**

The 26 stores operated in California by SCO use the services of Jacmar Foodservice Distribution ("JFD"), a division of The Jacmar Companies. Total purchases from JFD totaled \$16,475,000 and \$15,454,000 for the fiscal years ended January 2, 2024 and January 3, 2023, respectively. Amounts payable to JFD for purchases of food were \$902,000 and \$956,000 at January 2, 2024 and January 3, 2023, respectively.

Certain administrative expenses are shared by The Jacmar Companies and the Company. Amounts payable to The Jacmar Companies were \$1,022,000 and \$178,000 at January 2, 2024 and January 3, 2023, respectively.

During September 2023, the Company and one of its related party affiliates entered a note receivable agreement for \$3,861,000. The note accrued interest at 6% and the accrued interest as of January 2, 2024 was \$62,000. The total note receivable as of January 2, 2024 was \$3,923,000. The note receivable, including accrued interest was paid in full during February 2024.

**Shakey's USA, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**  
**January 2, 2024 and January 3 2023**

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**Concentration of Credit Risk**

The Company maintains cash accounts at various financial institutions. The accounts are insured by the Federal Deposit Insurance Corporation up to \$250,000 per Corporation/ Owner and per financial institution. The cash accounts, at times, may exceed federally insured limits. Any loss or lack of access to such funds could have a significant adverse impact on the Company's financial condition, results of operations, and cash flows.

**8. EMPLOYEE RETENTION CREDIT**

During the fiscal year ended January 4, 2022, the Company filed for the Employee Retention Credit ("ERC"), which is a refundable tax credit akin to a government grant for eligible entities. As US GAAP does not contain guidance on the accounting for government grants to for-profit entities, the Company is following the guidance in International Accounting Standards 20, ("IAS 20", *Accounting for Government Grants and Disclosure of Government Assistance*). Thus, the ERC is recognized over time as qualifying expenses that give rise to the credit are incurred. For the fiscal year ended January 3, 2023, the Company recognized \$1,206,000 of ERC in accounts receivable and grant income in the accompanying consolidated statement of income. The Company received payment in full for the refundable portion of the ERC during the year ended January 4, 2022.

7/2/2025

Shakey's USA  
SUSA Consolidated  
Balance Sheet

For the Six Months Ending Tuesday, June 17, 2025

Current  
YTD

## CURRENT ASSETS

Cash	8,838,032
Investments - SUSA*	2,481,809
Accounts Receivables	84,023
I/C Receivables	13,864,090
Accounts Receivable - Trade	700,731
Inventories	384,835
Prepays	384,515
Total Current Assets	<u>26,738,035</u>

## FIXED ASSETS

Land and Buildings	60,953
Furn, Fixtures, & Equipment	11,275,097
Leasehold Improvements	24,746,924
Construction In Progress	1,397,870
Total Fixed Assets	<u>37,480,844</u>
Accumulated Depreciation	<u>(30,804,088)</u>
Net Fixed Assets	6,676,756

## OTHER ASSETS

Liquor License	12,267
Goodwill	3,206,823
Intellectual Properties	7,265,408
ROU - ASC 842	26,521,099
Deposits	191,496
Deferred Taxes	799,464
Prepaid Taxes	1,600
Total Other Assets	<u>37,998,157</u>

TOTAL ASSETS 71,412,948

## CURRENT LIABILITIES

Accounts Payable	710,669
Sales Tax Payable	869,861
Accrued Salaries & Bonus	2,493,789
Accrued Professional Fees	60,825
Accrued Rent Overages	125,752
Accrued Advertising/Royalties	266,631
Accrued Property Taxes	188,985
Accrued Utilities	104,012
Accrued Safety Program	64,510
Short-Term Debt	197,535

Other Accrued Liabilities\* 3,314,478  
Total Current Liabilities 8,397,047

## OTHER LIABILITIES

Long-Term Debt	15,909,092
ASC 842 Liability	24,496,990
Taxes Payable	63,298
Total Other Liabilities	<u>40,469,380</u>

Total Liabilities 48,866,427

## SHAREHOLDERS EQUITY

Common/Treasury Stock	(7,647,311)
Additional Paid In Capital	25,077,982
Retained Earnings-Prior	(75,421)
Retained Earnings-Current	5,191,272
Total Shareholders Equity	<u>22,546,522</u>

TOTAL LIABILITIES &  
STOCKHOLDERS EQUITY 71,412,949

7/2/2025  
4:45 PM

Shakey's USA, Inc.  
Shakey's USA - Consolidated Inc Stmt  
For the Six Months Ending Tuesday, June 17, 2025

	<b>Current Period</b>	
	This Year	
	6/17/2025	% Sales
Food & Beverage Sales	5,608,791	88.5%
Game Sales	598,428	9.4%
Royalty Income	123,988	2.0%
Rental Income	769	0.0%
Other Restaurant Income	1,696	0.0%
Other Admin Income	3,788	0.1%
<b>Total Income</b>	<b>6,337,460</b>	<b>100.0%</b>
Cost Of Food & Beverage	1,541,202	24.3%
Cost of Game Revenue	107,064	1.7%
<b>Cost of Sales</b>	<b>1,648,266</b>	<b>26.0%</b>
Restaurant Labor	1,689,573	26.7%
Other Restaurant Expenses	1,596,980	25.2%
Admin Labor & Benefits	410,782	6.5%
Other Admin Expenses	177,488	2.8%
<b>Total Expenses</b>	<b>5,523,089</b>	<b>87.1%</b>
<b>EBITDA</b>	<b>814,371</b>	<b>12.9%</b>
(Gain)/Loss on sale of assets	0	0.0%
Restaurant Depreciation	0	0.0%
Amortization - Goodwill	0	0.0%
Admin Depreciation	0	0.0%
EBIT	814,371	12.9%
Interest Income	22,105	0.3%
Interest Expense	0	0.0%
Pretax Income (Loss)	836,476	13.2%
Income Taxes	11,790	0.2%
Net Profit(Loss)	824,686	13.0%

**Exhibit "H"**

**Release**

## WAIVER AND RELEASE OF CLAIMS

This Waiver and Release of Claims (the “Release”) is made as of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, a(n) \_\_\_\_\_ (“Franchisee”), and each individual holding an ownership interest in Franchisee (collectively with Franchisee, “Releasor”) in favor of Shakey’s USA, Inc., a Delaware corporation (“Franchisor”) and together with the Releasor, the “Parties”).

**WHEREAS**, Franchisor and Franchisee have entered into a Franchise Agreement (the “Agreement”) pursuant to which Franchisee was granted the right to own and operate a Shakey’s Restaurant;

**WHEREAS**, Franchisee has notified Franchisor of its desire to transfer the Agreement and all rights related thereto, or an ownership interest in Franchisee, to a transferee, [**enter into a successor franchise agreement**] and Franchisor has consented to such transfer [**agreed to enter into a successor franchise agreement**]; and

**WHEREAS**, as a condition to Franchisor’s consent to the transfer [**Franchisee’s ability to enter into a successor franchise agreement**], Releasor has agreed to execute this Release upon the terms and conditions stated below.

**NOW, THEREFORE**, in consideration of Franchisor’s consent to the transfer [**Franchisor entering into a successor franchise agreement**], and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, and intending to be legally bound, Releasor hereby agrees as follows:

**1. Representations and Warranties.** Releasor represents and warrants that it is duly authorized to enter into this Release and to perform the terms and obligations herein contained, and has not assigned, transferred or conveyed, either voluntarily or by operation of law, any of its rights or claims against Franchisor or any of the rights, claims or obligations being terminated and released hereunder. Releasor further represents and warrants that all individuals that currently hold a direct or indirect ownership interest in Franchisee are signatories to this Release.

**2. Release.** Releasor and its subsidiaries, affiliates, parents, divisions, successors and assigns and all persons or firms claiming by, through, under, or on behalf of any or all of them, hereby release, acquit and forever discharge Franchisor, and any and all of its affiliates, parents, subsidiaries or related companies, divisions and partnerships, and its and their past and present officers, directors, agents, partners, shareholders, employees, representatives, successors and assigns, and attorneys, and the spouses of such individuals (collectively, the “Released Parties”), from any and all claims, liabilities, damages, expenses, actions or causes of action which Releasor may now have or has ever had, whether known or unknown, past or present, absolute or contingent, suspected or unsuspected, of any nature whatsoever, including without limiting the generality of the foregoing, all claims, liabilities, damages, expenses, actions or causes of action directly or indirectly arising out of or relating to the execution and performance of the Agreement and the offer and sale of the franchise related thereto.

**3. Nondisparagement.** Releasor expressly covenants and agrees not to make any false representation of facts, or to defame, disparage, discredit or deprecate any of the Released

Parties or otherwise communicate with any person or entity in a manner intending to damage any of the Released Parties, their business) or their reputation.

**4. Miscellaneous.**

a. Releasor agrees that it has read and fully understands this Release and that the opportunity has been afforded to Releasor to discuss the terms and contents of said Release with legal counsel and/or that such a discussion with legal counsel has occurred.

b. This Release shall be construed and governed by the laws of the State of California.

c. Each individual and entity that comprises Releasor shall be jointly and severally liable for the obligations of Releasor.

d. In the event that it shall be necessary for any Party to institute legal action to enforce or for the breach of any of the terms and conditions or provisions of this Release, the prevailing Party in such action shall be entitled to recover all of its reasonable costs and attorneys' fees.

e. All of the provisions of this Release shall be binding upon and inure to the benefit of the Parties and their current and future respective directors, officers, partners, attorneys, agents, employees, shareholders and the spouses of such individuals, successors, affiliates, and assigns. No other party shall be a third-party beneficiary to this Release.

f. This Release constitutes the entire agreement and, as such, supersedes all prior oral and written agreements or understandings between and among the Parties regarding the subject matter hereof. This Release may not be modified except in a writing signed by all of the Parties. This Release may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same document. Facsimile signatures shall be deemed to be as valid as original signatures.

g. If one or more of the provisions of this Release shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect or impair any other provision of this Release, but this Release shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

h. The Parties agree to do such further acts and things and to execute and deliver such additional agreements and instruments as any Party may reasonably require to consummate, evidence, or confirm the Release contained herein in the matter contemplated hereby.

IN WITNESS WHEREOF Releasor has executed this Release as of the date first written above.

**FRANCHISEE**

\_\_\_\_\_ ,

a \_\_\_\_\_

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

Name: \_\_\_\_\_

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

**FRANCHISEE'S OWNERS**

\_\_\_\_\_ ,

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

Date: \_\_\_\_\_

### 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>
California	Exempt
Hawaii	Not Registered
Illinois	Not Registered
Indiana	Not Registered
Maryland	Pending
Michigan	Not Registered
Minnesota	Pending
New York	Not Registered
North Dakota	Not Registered
Rhode Island	Not Registered
South Dakota	Not Registered
Virginia	Not Registered
Washington	Pending
Wisconsin	Not Registered

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.

**Exhibit "I"**  
**Receipts**

RECEIPT  
(Your Copy)

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 Shakey's USA, Inc. offers you a franchise, it must provide this Disclosure Document to you 14 calendar days before you sign a binding agreement with, or make a payment to, us or an affiliate in connection with the proposed franchise sale. New York requires that we give you this Disclosure Document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.

Michigan requires that we give you this Disclosure Document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

If Shakey's USA, Inc. 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 law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the appropriate state agency identified on Exhibit "A".

The name, principal business address and telephone number of each franchise seller offering the franchise:

Sonia Barajas-Najera at 2200 West Valley Boulevard, Alhambra, California 91803 (626) 576-0616; and

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Issuance Date: July 24, 2025 (the effective dates in certain states are listed on the State Cover Page)

See Exhibit "A" for our registered agents authorized to receive service of process.

I have received a Disclosure Document dated July 24, 2025, that included the following Exhibits:

Exhibit "A"	State Agencies and Administrators and Agents for Service of Process
Exhibit "B"	Franchise Agreement
Exhibit "C"	Area Development Agreement
Exhibit "D"	Table of Contents of Confidential Operating Manual
Exhibit "E"	State Disclosure Addenda and Agreement Riders
Exhibit "F"	Franchisees as of December 31, 2022
Exhibit "F-1"	Stores Not Yet Open as of December 31, 2022
Exhibit "F-2"	Former Franchisees
Exhibit "G"	Financial Statements
Exhibit "H"	Release
Exhibit "I"	Receipts

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Date	Signature	Printed Name
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Date	Signature	Printed Name
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KEEP THIS COPY FOR YOUR RECORDS.

RECEIPT  
(Our Copy)

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Exhibit "I"	Receipts

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Date	Signature	Printed Name
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Date	Signature	Printed Name
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**PLEASE SIGN AND DATE THIS COPY OF THE RECEIPT AND RETURN IT TO:**  
SHAKEY'S USA, INC., 2200 WEST VALLEY BOULEVARD, ALHAMBRA, CALIFORNIA 91803