

## FRANCHISE DISCLOSURE DOCUMENT



HAPPY JOE'S FRANCHISING, INC.  
(An Iowa Corporation)  
5239 Grand Avenue  
Davenport, Iowa 52807  
(563) 332-8811  
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[www.happyjoes.com](http://www.happyjoes.com)

You will operate a business that supports our franchise system by recruiting, screening, and evaluating prospective franchise candidates and providing services to HAPPY JOE'S franchisees in a defined area. We call this the "Area Director Business."

The total investment necessary to begin operation of a HAPPY JOE'S Area Director Business ranges from \$222,750 to \$746,250. This includes \$210,000 (for the right to develop six HAPPY JOE'S restaurants) to \$700,000 (for the right to develop 20 HAPPY JOE'S restaurants) that must be paid to the franchisor or an affiliate. The Area Director franchise opportunity requires a commitment to develop at least six HAPPY JOE'S restaurants.

This disclosure document summarizes certain provisions of your franchise agreement and other information in plain English. Read this disclosure document and all accompanying agreements carefully. You must receive this disclosure document at least 14 calendar days before you sign a binding agreement with, or make any payment to, the franchisor or an affiliate in connection with the proposed franchise sale. **Note, however, that no governmental agency has verified the information contained in this 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 Tom Sacco at 5239 Grand Avenue, Davenport, Iowa 52807, (563) 332-8811.

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 "*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, D.C. 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 be laws on franchising in your state. Ask your state agencies about them.

Issuance date: January 29, 2024 as amended on April 1, 2024.

## 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 A 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 Happy Joe’s Pizza area representative business in my area?</b>	Item 12 and the “territory” provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
<b>Does the franchisor have a troubled legal history?</b>	Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.
<b>What’s it like to be a Happy Joe’s Pizza franchisee?</b>	Item 20 or Exhibits 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 D.

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 Iowa. 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 Iowa 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.

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**ITEM 1**  
**THE FRANCHISOR AND ANY PARENTS, PREDECESSORS AND AFFILIATES**

To simplify the language in this Disclosure Document, the terms “we,” “us,” or “our” means Happy Joe’s Franchising, Inc., the franchisor. “You” or “your” means the person or entity buying the franchise and includes your owners if you are a corporation, limited liability company, partnership or other entity.

The Franchisor, and its Parents, Predecessors, and Affiliates

We were incorporated in the State of Iowa on August 29, 2000. We maintain our principal business address at 5239 Grand Avenue, Davenport, Iowa, 52807. We do business under the name "HAPPY JOE'S" and "HAPPY JOE'S PIZZA & ICE CREAM PARLOR" and our corporate name. A list of our agents for service of process is contained in Exhibit D to this Disclosure Document.

We have no predecessor. Our parent company is Dynamic Restaurant Franchising, Inc. (“DRF”), a Delaware corporation, which is subsidiary of Dynamic Restaurant Holdings, LLC (“Dynamic Holdings”), also a Delaware corporation. Both DRF and Dynamic Holdings share our principal business address at 5239 Grand Avenue, Davenport, Iowa, 52807.

We have been offering franchises of the type described in this disclosure document since August 2023. While we have never operated a business of the type described in this disclosure document, in our role as franchisor, we have been offering HAPPY’S JOES restaurant franchises and supporting franchisees since September 2000. The HAPPY JOE’S restaurant franchise opportunity is described in a separate disclosure document. Other than franchising HAPPY JOE’S restaurants and supporting our franchisees, we engage in no other business activities.

Our affiliate, Tony Sacco’s Franchising, Inc. (formerly TS Dynamic Restaurant Acquisition, Inc.) (“Tony Sacco’s”), a Delaware corporation, franchises the operation of TONY SACCO’S restaurants and, as of December 31, 2023, had two operating franchises. Tony Sacco’s has been offering franchises since 2021. Tony Sacco’s shares our principal business address at 5239 Grand Avenue, Davenport, Iowa, 52807.

Our affiliate, Dynamic Restaurant Acquisition, Inc. (“DRA”) is currently a supplier of computer maintenance products and services and accounting and management services. DRA shares our principal business address.

We have no other affiliates that offer franchises or that provide goods or services to our franchisees.

The HAPPY JOE’S Area Director Franchise

HAPPY JOE’S restaurants feature a family-friendly, fun atmosphere and menu items consisting of pizza, ice cream, and related food items, including breakfast foods. They operate under the trade name and service marks "HAPPY JOE'S" and "HAPPY JOE'S PIZZA & ICE CREAM PARLOR," and associated logos, commercial symbols, and other trade names, trademarks and service marks as we designate now or in the future (the “Marks”).

As a HAPPY JOE’S Area Director, you will recruit, screen, and evaluate prospective franchise candidates for the HAPPY JOE’S restaurant franchise opportunity and will support franchisees in a defined area. In consideration for these services, you will receive a “Sales Commission” calculated as a percentage of the initial franchise fee we receive from new franchisees, and a “Services Commission” calculated as a percentage of the royalty fees we receive from franchisees operating in your Territory.

As an area director, you will commit to develop at least six HAPPY JOE’S restaurants in your Territory. You must develop at least one of the restaurants yourself to be used as a flagship restaurant and training facility for new franchisees. We call this the “Pilot Restaurant.” You may satisfy your remaining development obligations by recruiting and screening qualified franchise candidates who ultimately sign franchise agreements with us and develop HAPPY JOE’S restaurant. If, under the Area Director Agreement, you commit to develop six to 10 HAPPY JOE’S restaurants, we will pay you a Sales Commission equal to 1% of the initial franchise fee and 1% of the royalty fees we receive from franchisees in your Territory. If you commit to develop 11 or more HAPPY JOE’S restaurants, we will pay you 1.5% of the initial franchise fee and 1.5% of the royalty fees we receive from franchisees in your Territory.

The Area Director Agreement provides for an initial 10-year term with perpetual 10-year renewals. To renew

your rights under the Area Director Agreement, we must first agree to a new development schedule for your Territory. If at the end of the initial term of any renewal term we do not agree or you decide not to renew, and if you continue to support franchisees in your Territory, you will continue to receive the Service Commissions for franchisees in your Territory through the remaining term of their franchise agreements.

### Market and Competition

The market for franchise sales is well developed and very competitive. As an area director, you will compete with other franchise development professionals (including inhouse sales personnel and third-party franchise brokers and consultants) who are seeking qualified franchise candidates for all types of franchise opportunities, including other pizza restaurant franchises, other types of restaurant franchises, sandwich franchises, specialty food franchises, retail franchises, fitness franchises, and service businesses.

### Industry-Specific Laws and Regulations

California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, Rhode Island, South Dakota, Virginia, Washington, and Wisconsin require that we register the franchise or make an annual filing before we can offer and sell franchises in the state. Some of these states require us to wait for state approval before we begin offering or selling franchises. If your Territory is in any of these states, you could experience a short “dark” period during which we cannot grant a franchise while waiting on state approval.

If your Territory is in a state that requires us to register the HAPPY JOE'S franchise opportunity, we may include your personal information as part of our registration application. New York and Washington require franchise brokers and sellers to maintain their own registrations.

## **ITEM 2 BUSINESS EXPERIENCE**

### President and Chief Executive Officer and Director: Thomas Sacco

Thomas Sacco was named our President and Chief Executive Officer in October 2020. From October 2020 to the present, he has been President and CEO of Dynamic Restaurant Acquisition, Inc., Dynamic Restaurant Franchising, Inc., HJ Dynamic Holdings, LLC, Dynamic Restaurant Holdings, LLC, TS Dynamic Holdings, LLC and TS Dynamic Acquisition, Inc. From July 2017 to the present, he has been a Restaurant Management Consultant for New Century Dynamics, Inc. d/b/a In The Black Partners in Atlanta, Georgia. From January 2018 to the present, he has been an Advisory Board Member of BGMXX, Inc. d/b/a Blue Goose Cantina and RAPXX, LP d/b/a Aw Shucks Oyster Bar in Addison, Texas. From April 2018 to June 2020, he was CEO of Flipdaddy's LLC in Cincinnati, Ohio. From January 2000 to present, he has been President of DALMS, Inc. in Austin, Texas, a restaurant consulting firm offering “C Level” and Board of Directors advisory consultation.

### Chief Financial Officer and Treasurer: Hollie Matthys

Hollie Matthys has been our Chief Financial Officer and Treasurer since March 2019. As of March 2019, she also became Chief Financial Officer and Treasurer of HJ Dynamic Holdings, LLC, Dynamic Restaurant Acquisitions, Inc., Dynamic Restaurant Franchising, Inc., TS Dynamic Holdings, LLC, TS Dynamic Acquisition, Inc. and PF Restaurant Franchising, Inc. From 2017 to March 2019, she was Director of Finance for the above companies. From 2003 to March 2019, she was our Director of Finance.

### Vice President of Franchise Development: Kathy Davidson

Kathy Davidson has been our Vice President of Franchise Development since February 2020, and has been Vice President of Franchise Development of TS Dynamic Acquisition since February 2020. From April 2019 to August 2020, she was Vice President Franchise Development for Coolgreens in Oklahoma City, Oklahoma. From August 2018 to April 2019, she was Senior Vice President Franchise Development for Fazolis in Lexington, Kentucky. From August 2020 to the present, she has been self-employed as a franchise consultant in Dallas, Texas.

### Director of Training & Culinary Development: Ashley Balluff

Ms. Balluff has been Director of Training & Culinary Development of Dynamic Restaurant Holdings, LLC since April 2022. From September 2019 until April 2022, Ms. Balluff was Director of Field Training. From

August 2010 to August 2019, she was a District Coach/Manager for Max Brewer Corporation, a Happy Joe's franchisee, in Muscatine, Iowa.

Director of Purchasing & Supply Chain: Jenny Culp

Jenny Culp has been the Director of Purchasing & Supply Chain for Dynamic Restaurant Holdings, LLC since October 2022. She was Director of Operations for Happy Joe's Company owned and operated restaurants from 2018 to October 2022.

Director of Marketing: Joshua Spiller

Josh Spiller has served as Director of Marketing for Dynamic Restaurant Holdings, LLC since June 2023. Before joining us, Mr. Spiller served as Director of Marketing for Park Vista Retirement Living in East Moline, Illinois, from September 2021 to June of 2023, and served as Director of Marketing for Generations at Rock Island in Rock Island, Illinois, from August 2020 to September 2021. From July 2018 to August 2020, Josh was an account executive and digital strategist for Lee Enterprises, located in Davenport, Iowa.

Director of Community & Public Relations: Kristel Whitty Ersan

Kristel Whitty Ersan has been with Happy Joe's Pizza & Ice Cream in various roles since 1980. Kristel has been the Secretary/Treasurer, Vice President of Marketing, and Director of Marketing at various times for Happy Joe's Pizza & Ice Cream, and Happy Joe's Franchising, Inc. In Kristel's current role she is the local, Quad Cities media spokesperson, and wears a variety of hats supporting numerous functions, such as the annual Franchise Operators Conference, Special Events, such as the Quad Cities Mini-Marathon, and is the Chairperson who heads up the annual Happy Joe's Kids Foundation Christmas Party.

**ITEM 3  
LITIGATION**

No litigation is required to be disclosed in this Item.

**ITEM 4  
BANKRUPTCY**

Our President and CEO, Thomas Sacco, was CEO of Flipdaddy's, LLC, a Cincinnati, Ohio based burger and craft beer bar chain from April 2018 to June 2020. On December 6, 2018, Flipdaddy's LLC filed a Voluntary Petition for Bankruptcy under Chapter 11 of the U.S. Bankruptcy Code. In re Flipdaddy's LLC No. 18-14408 (S.D. Ohio 2018). On February 9, 2021, the court issued an order dismissing the case.

On September 2, 2022, four of our operating affiliates, HJ Dynamic Holdings, LLC, TS Dynamic Holdings, LLC, Dynamic Restaurant Acquisition, Inc. and TS Dynamic Acquisition, Inc., filed for protection under Chapter 11 of the U.S. Bankruptcy Code, primarily seeking protection from lease liability: In re HJ Dynamic Holdings, LLC No. 22-10837 (JKS) (Delaware 2022), In re TS Dynamic Holdings, LLC No. 22-10838 (JKS) (Delaware 2022), In re Dynamic Restaurant Acquisition, Inc. No. 22-10839 (JKS) (Delaware 2022), and In re TS Dynamic Acquisition, Inc. No. 22-10840 (JKS) (Delaware 2022). These cases had their Plan of Reorganization approved by The United States Bankruptcy Court for the District of Delaware, and by the Honorable J. Kate Stickles, United States Bankruptcy Judge, on April 26, 2023. The affiliates have a principal business address located at 5239 Grand Avenue, Davenport, Iowa 52807. This action involved only our operating affiliates. It did not involve us or the franchise system.

No other bankruptcy information is required to be disclosed in this item.

**ITEM 5  
INITIAL FEES**

You will pay us an Area Director Fee equal to \$35,000 multiplied by the number of HAPPY JOE'S restaurants you commit to develop. For example, if you commit to develop 10 restaurants, you will pay us an Area Director Fee equal to \$350,000.

When you sign the Area Director Agreement, you also will sign a franchise agreement for your Pilot Restaurant. We will credit \$35,000 of your payment to fully satisfy the \$35,000 initial franchise fee due under the Pilot Restaurant franchise agreement.

The initial franchise fee is nonrefundable when paid. The Area Director Fee is calculated uniformly for all

area directors.

**ITEM 6  
OTHER FEES**

<b>Type of Fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Franchise Sales Expenses	Same percentage as Sales Commission and Services Commission (i.e., either 1% of our actual cost or 1.5% of our actual costs).	Upon demand	If we incur any costs in connection with a Franchise Sale (for example, the legal costs associates with preparing agreements and/or negotiating the terms of the agreement) you must reimburse us a portion of our out-of-pocket costs.
Franchise Enforcement Expenses and Liability	Same percentage as Sales Commission and Services Commission (i.e., either 1% of actual costs or 1.5% of actual costs).	Upon demand	If we incur any liability or expense in enforcing any franchise agreement or defending against any franchise claim, you are responsible for a portion of the expenses and/or liability.
Chargeback for Initial Franchise Fee Refund	Your proportionate share of initial franchise fees	Upon demand	If we refund all or a portion of a franchisee's initial franchise fee, you must return to us your proportionate share of any Sales Commission paid on account of the sale.
Late Fees	Highest applicable legal rate for open account business credit not to exceed 1.5% a month.	After due date	
Transfer Fee	The greater of (a) 10% of the gross sales price or other consideration that you will receive or (b) \$15,000.	At time of transfer	
Additional Training	Our then-current rate, currently, \$400 per trainee over three trainees for initial training; \$100 per trainee for additional managers.	Time of training	
Indemnification	Varies	Upon demand	
Annual Meeting Fee	Determined by us. Currently, \$0 for Area Directors	Before date of conference	Payable when you attend the annual meeting.

**NOTES**

Note 1. All fees are imposed by and are payable to us, unless otherwise noted. Any fees paid to us are non-refundable unless otherwise noted. Except as stated herein, all fees are imposed uniformly for all area directors.

**ITEM 7  
ESTIMATED INITIAL INVESTMENT**

## YOUR ESTIMATED INITIAL INVESTMENT

Type of Expenditure	Amount		Method of Payment	When Due	To Whom Paid
	Low	High			
Area Director Fee <sup>(1)</sup>	\$210,000	\$700,000	Lump Sum	When you sign the Area Director Agreement	Us
Insurance <sup>(2)</sup>	\$2,750	\$6,250	As Arranged	As Arranged	Insurance Company
Training <sup>(3)</sup>	\$0	\$30,000	As Incurred	As Incurred	Transportation Lines, Hotels and Restaurants
Office Equipment and supplies	\$5,000	\$5,000			
Additional Funds – 3 months <sup>(4)</sup>	\$5,000	\$5,000	As Arranged	As Incurred	Third party suppliers and membership organizations
<b>TOTAL</b>	<b>\$222,750</b>	<b>\$746,250</b>			

### NOTES

**Note 1.** You must procure and maintain insurance coverage in minimum amounts described in the Manuals or otherwise in writing. The low estimate contemplates a 3-month down payment. The high estimate contemplates premium payments for 12 months.

**Note 2.** You are responsible for arranging transportation and paying the expenses for meals and lodging for any persons attending the training program. The amount spent will depend on the distance you must travel and your choice of lodging accommodations.

**Note 3.** As an area director, you must attend and successfully complete our initial training program for a restaurant franchisee. The low figure assumes that you have completed this training in connection with your purchase of a HAPPY JOE'S restaurant franchise. The high figure reflects estimated meals, lodging, and local transportation costs for three people to attend our initial six-week training program in Bettendorf, Iowa. It does not include airfare or other transportation costs to or from Bettendorf, Iowa.

**Note 4.** This amount reflects the estimated amount of working capital you will need to operate the Area Director business for the first three months. It includes the estimated cost of printing business cards and local networking membership fees and expenses.

We do not offer any financing for your initial investment, and the availability and terms of financing to you will depend upon factors such as the availability of financing in general, your creditworthiness, the collateral security that you may have, and policies of lending institutions concerning the type of business you will operate.

Any fees paid to us are non-refundable. Fees paid to a third party may be refundable, depending upon the contracts, if any, between that third party and you.

## ITEM 8 RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

As an area director, you must acquire, subscribe to, and use our customer relationship management and

other required software.

You must purchase from us or from designated supplier(s) products and supplies utilized in the operation of HAPPY JOE'S PIZZA Restaurants and make such products and supplies available for purchase by franchisees in your Territory. To the extent that you buy products from us, the purchase will be our the-current published prices plus shipping and handling fees not to exceed 10% of the total purchase price of any order.

You must procure and maintain, at your expense, an insurance policy or policies protecting you, us and the respective officers, directors and employees against any loss, liability, personal injury, death or property damage or expense connected to the Area Director Business as we may reasonably require for our own and your protection. We must be named as an additional insured on the general liability and umbrella policies. The policy or policies must be written by an insurance company licensed in the state in which your Franchised Restaurant is located and having at least an "A-" Rating Classification as indicated in Best's Key Rating Guide. If possible, the policy must include a provision agreeing to provide notice to us at least 10 days before cancellation or non-renewal. If this is not possible, you must notify us at least 10 days before cancellation or non-renewal. You must obtain replacement coverage prior to the cancellation or non-renewal of any existing insurance policy and provide us with a copy of the new insurance certificate. We may modify minimum insurance requirements, including required insurance coverage types and coverage amounts, at any time.

During our fiscal year ended September 30, 2023, neither we nor our affiliates derived any revenue from area director required purchases.

During our fiscal year ended September 30, 2023, we and our affiliates did derive revenue from the sale of advertising and promotional materials bearing the Marks, forms, signs, and supplies to our franchisees. During this period, we received \$12,791 or 0.9% of our total revenues of \$1,378,070 from franchisee purchases of the items described above. These revenue figures were taken from our audited financial statement. In the fiscal year ended September 30, 2023, our Affiliate, Dynamic Restaurant Acquisition, Inc., received \$105,620 or less than 2.1% of its total revenues from franchisee purchases, including sales of computer maintenance products and management and accounting services. These revenue figures were taken from the unaudited financial statement of our affiliate.

The purchase of products from designated suppliers, approved suppliers or in accordance with specifications and standards, will represent less than 10% of your initial purchases and leases in establishing the Area Director Business and less than 10% of your on-going purchases and leases.

There are no purchasing or distribution cooperatives in existence for area directors. We negotiate arrangements with suppliers, including price terms, for the benefit of franchisees. We do not provide any material benefits (for example, renewal or additional franchises) to area directors based on your purchase of particular products or services or use of particular suppliers.

## ITEM 9 FRANCHISEE'S OBLIGATIONS

**The tables list your principal obligations under the Area Director Agreement. It will help you find more detailed information about your obligations in the Area Director Agreement and in other items of this disclosure document.**

Obligation	Provision in Agreement	Disclosure Document Item
a. Site Selection and acquisition/lease	No provision	Items 8 and 12
b. Pre-opening purchases/leases	Section 8.8	Not applicable
c. Site development and other pre-opening requirements	No provision	Not applicable
d. Initial and ongoing training	Section 5.1.,5.2.and 8.9	Items 6, 7 and 11
e. Opening	No provision	Not applicable
f. Fees	Section 3.1	Items 5 and 6

Obligation	Provision in Agreement	Disclosure Document Item
g. Compliance with standards and policies/Operations Manual	Section 7.6.	Items 8, 11, 15 and 16
h. Trademarks and proprietary information	Article 9	Items 13 and 14
i. Restrictions on products/services offered	Section 2.1.	Item 16
j. Warranty and customer service requirements	No provision	Not applicable
k. Territorial development and sales quota	Section 6.1.	Item 12
l. Ongoing product/service purchases	Section 8.13.	Items 8 and 11
m. Maintenance, appearance and remodeling requirements	No provision	Items 6 and 8
n. Insurance	Sections 14.1. and 14.2.	Items 6, 7 and 8
o. Advertising	Article 11	Items 6, 7, 8 and 11
p. Indemnification	Sections 14.3., 14.4., 14.5., 14.6., and 14.7.	Item 6
q. Owner's participation/management/staffing	Section 2.1.	Item 15
r. Record/reports	Section 12.1.	Items 6 and 8
s. Inspections/audits	Section 12.2.	Items 6, 11 and 13
t. Transfer	Article 13	Items 6 and 17
u. Renewal	Section 2.2.	Item 6 and 17
v. Post-termination obligations	Article 17	Item 17
w. Non-competition covenants	Article 10	Item 17
x. Dispute resolution	Article 21	Item 17

**ITEM 10  
FINANCING**

We do not offer direct or indirect financing. We do not guaranty your note, lease or obligation.

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

**Except as listed below, Happy Joe's Franchising, Inc. is not required to provide you with any assistance.**

Some of our obligations under the Franchise Agreement and described in this Item 11 may be delegated to an Area Director if your franchise is located in the territory granted to an Area Director.

Our Obligations Before You begin Operating the Area Director Business:

1. Train you and your designated employees. (Area Director Agreement, Section 5.1.).
2. We will loan you one copy of or provide you electronic access to the HAPPY JOE'S restaurant Food and Beverage Manual, Accounting Manual, Certified Pizza Artist Training Manual, Certified Service Artist Training Manual, and Certified Delivery Driver Manual. (Area Director Agreement, Section 5.3.). The Table of Contents of the Manuals are attached to this disclosure document at Exhibit E. Our Food and Beverage Manual currently consists of 235 pages and our Accounting Manual currently consists of 98 pages. We do not have a separate manual specific to the Area Director Business.

Our Obligations During the Operation of the Area Director Business:

1. We will review and approve all promotional materials and advertising that you will use. If we do not disapprove in writing any advertising or promotional item within 30 days of receipt, the particular materials will be considered approved. We reserve the right to subsequently disapprove any advertising or promotional item that was previously approved. (Area Director Agreement, Section 11.2.)

Typical Length of Time Before Operation:

The typical length of time between the signing of the Area Director Agreement or paying us any consideration for the business and beginning operations ranges from two to four months. Factors that may affect this time include your availability to attend training. You must begin operations under the Area Director Agreement within six months of signing the agreement. If you fail to begin operating by this time, we can terminate the Area Director Agreement and retain your payment.

Training

As an area director, you (or your Key Person, as applicable) must attend and successfully complete our initial training program for new HAPPY JOE’S restaurant franchisees. Our training program is currently offered on an as needed basis.

The initial training programs as of the date of this disclosure document are as follows:

**RESTAURANT TRAINING PROGRAM**

<b>SUBJECT</b>	<b>HOURS OF CLASSROOM TRAINING<sup>1</sup></b>	<b>HOURS OF ON-THE-JOB TRAINING</b>	<b>LOCATION<sup>2</sup></b>
Orientation	3	None	Our Headquarters in Davenport, Iowa
Product Preparation	1-2	80	Happy Joe’s restaurants selected by us
Product Purchasing	1-2	10	Selected Happy Joe’s restaurants
Customer Service	1-2	20	Selected Happy Joe’s restaurants
Administrative Responsibilities	2-5	20	Davenport, Iowa
Marketing	2-5	5	Davenport, Iowa
Policy/Standards	1-2	None	Davenport, Iowa
On-the-Job Training (all areas hands on experience)	None	200	Selected Happy Joe’s restaurants
<b>Total</b>	<b>11 - 21</b>	<b>335</b>	

<sup>1</sup> Some of the initial training may be done on-line with our iPaths on-line training system instead of attending classroom training as we determine appropriate.

<sup>2</sup> The restaurant designated for on-the-job-training could be any Happy Joe’s franchised or a restaurant owned by Dynamic Restaurant Acquisition, Inc.

The following instructional materials will be used during the training: Food and Beverage Manual, Accounting Manual, Certified Pizza Artist Training Manual, Certified Service Artist Training Manual, and Certified Delivery Driver Manual. We have developed and are continuing to develop an on-line training system for restaurant owners, managers and employees under the name “iPaths.” In addition to the classroom and on-the-job training, you may be required to complete certain modules of the iPaths training system contemporaneously with attending the initial training program. You must have a computer and internet access in order to access Our iPaths on-line training that you may be required to complete.

Training is conducted under the supervision of Ashley Balluff, our Director of Training & Culinary Development. Prior to joining us in September 2019, Ms. Balluff managed two Happy Joe’s franchised restaurants for nine years. Prior to that, she worked for Happy Joe’s Pizza & Ice Cream Parlor, Inc. in their affiliate-owned Happy Joe’s restaurants in a variety of positions.

Our Director of Marketing, Josh Spiller, participates in our initial training program. Mr. Spiller has been with the HAPPY JOE’S brand since June 2023 and has been in the marketing industry since 2017. Jenny Culp, our Director of Purchasing & Supply Chain also participate in our initial training. Ms. Culp has been with the HAPPY JOE’S brand since 2007.

Other employees of ours or our parent or affiliate may participate in portions of the initial training. We reserve the right to make changes in the instructors at any time.

We do not charge for up to a total of three people to attend the initial training; however, your expenses in

attending this program, including travel and living costs and employees' salaries, will be your sole responsibility. (Paragraph IV.A.)

You must successfully complete our training program.

We may periodically provide and require that you and/or your employees attend and successfully complete refresher training programs or seminars conducted at a location designated by us. We will not charge you an attendance fee for mandatory refresher training programs or seminars; however, you are responsible for the expenses of you and your employees in traveling to and attending the training or seminar, including travel costs, room and board and employees' salaries. Your attendance will not be required at more than 3 programs in any calendar year and will not collectively exceed 6 business days in any calendar year. You must provide your employees with access to our on-line training system, and pay the quarterly fee charged by us, which is currently \$30 per month. (Paragraph IV.D.)

You must attend any Annual Meeting of HAPPY JOE'S franchisees that is held by us. We select the date and location. You may pay an annual meeting fee to us if all expenses are not covered by vendor, manufacturer, and supplier contributions, and you are responsible for all of the expenses of you and your employees in traveling to and attending the meeting, including travel costs, room and board and employees' salaries. Attendance at annual meetings will not be required more than 3 days during any calendar year. (Paragraph XII.S.)

## **ITEM 12 TERRITORY**

You may operate the Area Director Business from any location of your choosing, and there are no restrictions on relocation.

You will provide services in a geographic area that will be identified on the Summary Page of the Area Director Agreement, which we refer to as your "Territory." There is no minimum Territory size: the size and boundaries of Territory will be determined before you sign the Area Director Agreement and identified in the Area Director Agreement.

The Area Director Agreement does not provide you any options, rights of first refusal, or similar rights to acquire additional franchises.

The Area Director Agreement does not grant you 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. We and our affiliates have the right to advertise for, solicit, and screen franchise candidates through all communication channels, including the Internet. For each franchised HAPPY JOE'S restaurant developed in your Territory, however, you will receive the Sales Commission and Services Commission described in Item 1, regardless of where the lead originated or who participated in the sale.

Continuation of your territorial protection depends on your performance of your development obligations under the Area Development Agreement. If you do not meet your development obligations, we have the right to terminate the Area Director Agreement.

## **ITEM 13 TRADEMARKS**

As an area director, you will have a limited license to use our Marks in recruiting and supporting HAPPY JOE'S franchisees. We own the following principal trademarks, which have been registered on the Principal Register of the U.S. Patent and Trademark Office. All required affidavits and renewals have been filed.

<b>Mark</b>	<b>Date of Registration</b>	<b>Registration Number</b>
"HAPPY JOE'S"	February 3, 1976	1032639
"HAPPY JOE'S"	November 11, 1975	1024785
"HAPPY JOE'S PIZZA & ICE CREAM PARLOR"	November 30, 1976	1053785
"WHERE BIRTHDAYS ARE FUN"	November 30, 1976	1053784
"HAPPY JOE'S"	August 18, 1987	1453392
"SPICEY JOE'S"	December 27, 1988	1518183

Mark	Date of Registration	Registration Number
"MEAT WORKS"	February 7, 1995	1877797
Design plus words "HAPPY JOE'S PIZZA & ICE CREAM PARLOR"	June 1, 2004	2848301
"GOOD TIMES TO BE TOGETHER"	August 7, 2007	3277071

There are no agreements currently in effect which significantly limit our rights to use or license the use of the Marks in a manner material to the franchise. There are no presently effective determinations of the USPTO, the Trademark Trial and Appeal Board, the trademark administrator of any state or any court, any pending infringement, opposition or cancellation, proceeding or any pending material litigation involving the Marks or other commercial symbols.

We are not aware of any superior prior rights or infringing uses that could materially affect your use of the principal trademarks in any state. We are aware, however, of a chain of restaurants operating under the name "HAPPY'S PIZZA" and of a federal registration for the mark "HAPPY'S PIZZA." We initially opposed the registration of the mark, and ultimately reached an agreement with the owner in January 2009 which restricted their use of the HAPPY'S PIZZA mark in certain states and within certain distances of HAPPY JOE's restaurants.

You may not at any time contest the validity or ownership of the Marks, including any marks authorized or licensed to you after you sign the Area Director Agreement. You must immediately notify us when you learn about an infringement of or challenge to your use of the Marks. We will take whatever action we think appropriate. We are not required to defend you or indemnify you against a claim against your use of the Marks. We have the sole right to contest or bring an action against a third party relating to the Marks. If action is taken by us, you must cooperate with us in the defense or prosecution of the action.

You must modify or discontinue using any Mark upon direction to do so from us within a reasonable time after receiving notice from us. We have no obligation to you if modification or discontinuance of any Mark is required.

You must use the designation ®, ™, SM or other trademark registration notice where applicable in your advertising and promotion. You must not use any Mark or a portion of any Mark as part of any corporate or trade name or in any modified form, in the sale of any unauthorized product or service, or in any other manner that we have not authorized in writing. You must give notices of trademark and service mark registration as we specify and obtain fictitious or assumed name registrations as may be required under applicable law.

Unless you obtain our prior written consent, you must not (i) obtain any domain names for the Internet incorporating the Marks or create, develop, maintain and/or use your own web site on the Internet using any of the Marks, (ii) use any of the Marks on the Internet in any directory listing or advertising, or (iii) make any reference to or associate the Marks on any social media platforms, social networks, blog, or other on-line venue or in any other manner on the Internet. If we specifically permit any of these uses in the Manuals or other written materials provided by us, you must conform completely to all applicable standards and procedures described in the Manuals or other written materials.

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

There are no copyrights, patents, or patents pending that are material to the franchise. We are the owner of Copyright Registration No. VAu536-862 on file in the U. S. Register of Copyrights Office for the Happy Joe's Pizza & Ice Cream trademark artwork. We also claim copyright protection in many other elements of the System, including the Manuals, the content of our website and marketing materials, and the design elements of our trademarks (collectively, the "Copyrighted Works").

There are no presently effective determinations of the U.S. Register of Copyrights Office or any court which are relevant to the use of the Copyrighted Works. There are no pending infringement, opposition or cancellation proceedings, or any pending material litigation involving our Copyrighted Works.

As an area director, you will have access to information that we consider proprietary and confidential. You

may use our confidential information only for authorized purposes related to your operation of the Franchised Restaurant. You must promptly notify us when you learn of an unauthorized use of the confidential information. We are not obligated to take any action against any unauthorized user of the confidential information, but will respond to this information as we think appropriate. We are not obligated to indemnify you for losses brought by a third party concerning your use of this information.

You may share confidential information only to employees who must know it to operate the Area Director Business. You must not use, in advertising or any other form of promotion our copyrighted materials or other commercial symbols without the appropriate notices which may be required by law or we may require, including © or other copyright registration notice. All of your employees having access to our confidential information and all of your management personnel receiving training from us must sign non-disclosure agreements in a form that is acceptable to us.

You must immediately notify us when you learn about an infringement of or challenge to your use of the Copyrighted Works or confidential information. We will take whatever action we think appropriate. We are not required to defend you or indemnify you against a claim against your use of the Copyrighted Works or confidential information. We have the sole right to contest or bring an action against a third party relating to the Copyrighted Works or confidential information. If action is taken by us, you must cooperate with us in the defense or prosecution of the action.

**ITEM 15**

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

If the area director is an individual, the individual must participate personally in the direct operation of the Area Director Business. If the area director is a business entity, such as a corporation or a limited liability company, the business entity must designate a person to act as the area director’s “Key Person.” The Key Person must have and maintain a controlling interest in the area director entity.

If the area director is a business entity, all of your owners must personally guarantee your obligations under the Area Director Agreement, and must agree to be bound by confidentiality and noncompete obligations according to the Personal Guaranty and Undertaking attached as Exhibit B to the Area Director Agreement.

**ITEM 16**

**RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL**

As an area director, you will solicit interest and further the sale of HAPPY JOE’S restaurant franchise opportunities in your Territory. You may recruit candidates from anywhere but will receive the Sales Commission and Services Commission only if the franchised HAPPY JOE’S restaurant is located in your Territory.

**ITEM 17**

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

**THE FRANCHISE RELATIONSHIP**

**This table lists certain important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this disclosure document.**

<b>Provision</b>	<b>Section in Area Director Agreement</b>	<b>Summary</b>
a. Length of the franchise term	Section 2.1.	10 years.
b. Renewal or extension of term	Section 2.2.	Perpetual 10-year renewal options.

<b>Provision</b>	<b>Section in Area Director Agreement</b>	<b>Summary</b>
c. Requirements for franchisee to renew or extend	Section 2.2.	You must have met your development rights and be in compliance with the Area Director Agreement, we must mutually agree on a development schedule for the extended term, and you must sign a general release in favor of us and our affiliates.
d. Termination by franchisee	No provision	You have no contractual right to terminate the Area Director Agreement, but you have common law termination rights in accordance with Texas law.
e. Termination by franchisor without cause	No provision	Not applicable.
f. Termination by franchisor with cause	Sections 15.1 and 15.2.	We can terminate the Area Director Agreement for cause.
g. "Cause" defined - curable defaults	Section 15.2.	Failure to meet annual development objectives, conducting business activities in a way that injures our reputation, failure to operate a Pilot Restaurant, refusal to attend trade shows, accepting rebates or other monies from suppliers, accepting monies from franchisees, failing to comply with any other provision of the Area Director Agreement
h. "Cause" defined - non- curable defaults	Section 15.1.	The Area Director Agreement will terminate automatically upon the happening of certain insolvency-related events. We have the right to terminate if you are convicted of certain crimes, are held liable in certain types of civil actions, if you made false representations in your area director application, or if you purport to transfer or assign your rights in violation of the Area Director Agreement.
i. Franchisee's obligations on termination /non-renewal	Sections 17.1. and 17.2.	Area director upon termination or expiration of the agreement shall cease use of confidential information; return all materials reflecting franchisor marks and/or confidential information; discontinue the use of all marks; cancel assumed name registration containing marks; pay all costs and expenses incurred by the franchisor as a result of default by the area director; at franchisor's option, assign to franchisor all area director rights with identifying information used in connection with the business.
j. Assignment of contract by franchisor	Section 13.1.	We have the right to assign our rights in the Area Director Agreement.

<b>Provision</b>	<b>Section in Area Director Agreement</b>	<b>Summary</b>
k. "Transfer" by franchisee – definition	Section 13.2.	A "transfer" requiring our prior written consent includes: (a) the assignment or transfer of your rights in the Area Director Agreement; or (b) any Owner's transfer of any ownership interest in the area director business entity.
l. Franchisor approval of transfer by franchisee	Section 13.2.	You may not assign your rights in the Area Director Agreement without our prior written consent.
m. Conditions for franchisor approval of transfer	Section 13.2.	The transferee must meet our criteria for new area directors, you must have notified us of the proposed transfer at least 60 days before the anticipated closing date, you must pay a transfer fee, you and each Owner must sign a general release in our favor.
n. Franchisor's right of first refusal to acquire franchisee's business	No provision	Not applicable.
o. Franchisor's option to purchase franchisee's business	Article 16	We have the option to purchase your business at any time for a purchase price equal to the average monthly Services Commission that we paid you during the trailing 12-month period multiplied by the number of months remaining in the current term.
p. Death or disability of franchisee	No provision	Not applicable.
q. Non-competition covenants during the term of the franchise	Section 10.2.	During the term of the Area Director Agreement, you may not be involved in a competitive business anywhere.
r. Non-competition covenants after the franchise is terminated or expires	Section 10.3.	For a two-year period following expiration or termination of the Area Director Agreement, you may not be involved in a competitive business located in your former Territory or within 10 miles of any HAPPY JOE'S restaurant in existence or under development at the time of termination or expiration.
s. Modification of the agreement	Section 20.2.	The Area Director Agreement may be amended only by written agreement signed by both parties.
t. Integration/merger clause	Section 20.2.	The Area Director Agreement constitutes the final, fully integrated agreement between the parties concerning the area director relationship.
u. Dispute resolution by arbitration or mediation	No provision	Not applicable.

Provision	Section in Area Director Agreement	Summary
v. Choice of forum	Section 21.2.	Litigation in the state and federal courts serving the district in which we maintain our principal business headquarters at the time the lawsuit is initiated (subject to state law).
w. Choice of law	Section 21.1.	Texas law applies, subject to state law; except that disputes regarding the Marks will be governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. Sec. 1051 et seq.) (subject to state law).

**ITEM 18  
PUBLIC FIGURES**

We do not use any public figures 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 particular location or under particular circumstances..

There are three affiliate-owned HAPPY JOE'S Restaurants owned and operated by our affiliate Dynamic Restaurant Acquisition, Inc. Each of these three Restaurants operated for the full 12-month period ending on September 30, 2023, and are located in Iowa.

The following chart reflects Gross Sales, Cost of Sales, and certain operating expenses for the period of October 1, 2022 to September 30, 2023 for each of the three affiliate-owned HAPPY JOE'S Restaurants.

**AFFILIATE-OWNED FULL SIZE HAPPY JOE'S RESTAURANTS**

	Bettendorf		Locust		West 50th	
	Yearly Totals		Yearly Totals		Yearly Totals	
	\$	%	\$	%	\$	%
Total Revenue	1,905,784		1,485,632		1,573,668	
Total Discounts	197,634	10.4%	150,417	10.1%	146,307	9.3%
Net Revenue	1,708,150		1,335,215		1,427,361	
Total Cost of Sales	563,793	29.6%	479,432	32.3%	454,612	28.9%
Gross Profit	1,144,357	60.1%	855,783	57.6%	972,749	61.8%
Total Controllable Payroll Expenses	474,075	24.9%	400,863	27%	412,871	26.2%
Total Other Payroll Expenses	69,837	3.7%	66,477	4.5%	60,108	3.8%

Total Variable Expenses	195,467	10.3%	151,688	10.2%	209,102	13.3%
Total Fun Center Income/(Expense)	1,182	0.06%			30,462	1.9%
<b>Net Income</b>	<b>406,160</b>	<b>21.3%</b>	<b>236,756</b>	<b>15.9%</b>	<b>321,130</b>	<b>20.4%</b>
Royalty Fee	102,938	6%	80,113	6%	97,008	6%
<b>Imputed Net Income</b>	<b>303,221</b>	<b>16%</b>	<b>156,643</b>	<b>10.5%</b>	<b>224,122</b>	<b>14.2%</b>

Note 1. "Total Revenue" as used in this financial performance representation means the total gross sales derived from the operation of the restaurant including all sales of Menu Items, Proprietary Products, other food products, beverages and other related products and services to customers of the Restaurant, or any other source (including, but not limited to, insurance proceeds for loss of revenue), whether or not sold or performed at or from the HAPPY JOE'S Restaurant, less the amount of all sales tax receipts or similar tax receipts which, by law, are chargeable to customers, if such taxes are separately stated when the customer is charged and if such taxes are paid to the appropriate taxing authority. Total Revenue does not include game and coin machine income.

Note 2. "Net Revenue" means the Total Revenue minus authorized discounts.

Note 3. "Cost of Sales" means Total Revenue minus the costs for all food, and beverage ingredients, and paper products.

Note 4. "Gross Profit" means Net Revenue minus Cost of Sales.

Note 5. "Variable Expenses" includes expenses for advertising; HJNFB and co-op contributions; promotions; team sponsors and pledges; donations; Restaurant supplies; Workers Compensation insurance; laundry; staff member relations; education and conventions; maintenance supplies; uniforms; repairs and maintenance; maintenance contracts; outside services; telephone; television, cable, and internet; postage; office supplies; computer supplies; dues and subscriptions; cash (over) short; returned checks; travel and lodging; meals and entertainment; automobile expenses; client expenses; research and development for food; training materials; payroll administrative fees; intra-company bookkeeping; professional services; bank service fees; credit card fees; online ordering fees; licenses and fees; penalties and fines; sales and use tax expenses; waste removal; and other miscellaneous expenses. This category includes the contribution franchised Restaurants are required to pay to HJNFB and are recommended to spend on local advertising.

Note 6. "Total Fun Center Income/(Expense)" means the Gross Revenue from the Fun Center less Fun Center Expenses.

Note 7. "Net Income" means Gross Profit minus Controllable Payroll Expenses, Other Payroll Expenses, and Variable Expenses, plus Fun Center Income.

Note 8. "Royalty Fee Adjustment" reflects the 6% Royalty Fee that franchisees must pay to us under the franchise agreement on Net Revenue of the Restaurant and Gross Revenue of the Fun Center. These Restaurants did not pay us this Royalty Fee.

Note 9. "Imputed Net Income" means Net Income minus the Royalty Fee Adjustment.

Note 10. The affiliate-owned Restaurants included in the table above have been in operation ranging from ten (10) years to forty plus (40+) years. A newly established Restaurant without brand recognition in the local market or a customer base cannot expect to initially experience the same level of sales or income as an established business.

## GROSS SALES OF FRANCHISED RESTAURANTS

As of September 30, 2023, we had 35 franchised HAPPY JOE'S restaurants in operation in the United States. Of these 35 franchised Restaurants, 24 were Full-Size Restaurants, one restaurant operated under our "PIZZAGRILLE" model, nine were delivery-only or DELCO facilities, and one was a Bolt-On franchise which is a Restaurant that operates in an existing restaurant.

The following chart reflects the Gross Sales for the year ending on September 30, 2023, for the 24 Full-Size HAPPY JOE'S Restaurants and nine DELCO Restaurants that operated for the full reporting period.

Restaurant Type	Average Gross Sales	Number of Restaurants Meeting or Exceeding the Average	Median Gross Sales	Number of Restaurants Meeting or Exceeding the Median	Gross Sales Range	
					Low	High
Full-Size Restaurants	932,226	10	874,637	10	295,650	1,880,454
DELCO Restaurants	848,503	1	667,416	4	465,008	2,211,870

**Note 1.** The information was compiled from royalty reports and/or financial statements submitted to us by the franchisee. This information has not been audited and we have not taken any steps to independently verify the accuracy of the information submitted for each of these restaurants.

**Note 2.** "Gross Sales" as used in the chart above means the total gross sales derived from the operation of the Restaurant including all sales of Menu Items, Proprietary Products, other food products, beverages and other related products and services to customers of Franchisee (including but not limited to any game and coin machine income), or any other source (including, but not limited to, insurance proceeds for loss of revenue), whether or not sold or performed at or from the HAPPY JOE'S Franchised Restaurant, less the amount of all sales tax receipts or similar tax receipts which, by law, are chargeable to customers, if such taxes are separately stated when the customer is charged and if such taxes are paid to the appropriate taxing authority.

**Note 3.** As of September 30, 2023, the time the Full-Size Restaurants included in the above table have been in operation range from 12 months to forty+ (40+) years. As of September 30, 2023, the time the DELCO Restaurants included in the above table have been in operation range from 4 years to forty+ (40+) years. A newly established restaurant without brand recognition in the local market or a customer base cannot expect to initially experience the same level of Gross Sales as the Gross Sales of established businesses.

**Note 4.** Two affiliate-owned HAPPY JOE'S Restaurants transferred to franchisees as of October 1, 2022. While these Restaurants opened as franchised locations in 2022, they were operated by franchisees for the full calendar year ending on September 30, 2023 and were included in the above chart.

**Some outlets have sold this amount. Your individual results may differ. There is no assurance you will sell as much.**

Written substantiation of the data used in preparing this financial performance representation will be made available to prospective franchisees on reasonable request.

Other than the above 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 other 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 financial performance information or projections of your future income, you should report it to the franchisor's management by contacting Thomas Sacco, 5239 Grand Avenue, Davenport, Iowa, 52807, (563) 332-8811, the Federal Trade Commission, and the appropriate state regulatory agencies.

**ITEM 20  
OUTLETS AND FRANCHISEE INFORMATION**

Table No. 1  
Systemwide Outlet Summary  
For years ended September 30, 2021, to September 30, 2023

Outlet Type	Year	Outlets at the Start of the Year	Outlets at the End of the Year	Net Change
Franchised	2021	0	0	0
	2022	0	0	0
	2023	0	1	+1
Company-Owned	2021	0	0	0
	2022	0	0	0
	2023	0	0	0
Total Outlets	2021	0	0	0
	2022	0	0	0
	2023	0	1	+1

Table No. 2  
Transfers of Outlets from Franchisees to New Owners (other than the Franchisor)  
For years ended September 30, 2021, to September 30, 2023

State	Year	Number of Transfers
<b>TOTALS</b>	2021	0
	2022	0
	2023	0

Table No. 3  
Status Franchised Outlets  
For years ended September 30, 2021, to September 30, 2023

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations Other Reasons	Outlets at End of the Year
Montana	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	1	0	0	0	0	1
<b>TOTALS</b>	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
	2023	0	1	0	0	0	0	1

Notes:

- (1) In 2021, we entered into an Area Director Agreement for the Middle East.

Table No. 4  
Status of Company-Owned Outlets  
For years ended September 30, 2021, to September 30, 2023

State	Year	Outlets at Start of the Year	Outlets Opened	Outlets Reacquired From Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of the Year
Totals	2021	0	0	0	0	0	0
	2022	0	0	0	0	0	0

State	Year	Outlets at Start of the Year	Outlets Opened	Outlets Reacquired From Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of the Year
	2023	0	0	0	0	0	0

Table No. 5  
Projected Openings as of September 30, 2023

State	Franchise Agreements <sup>1</sup> Signed but Outlet Not Open	Projected New Franchised Outlets <sup>1</sup> in the Next Fiscal Year	Projected Company-Owned Outlets <sup>1</sup> in the Next Fiscal Year
Minnesota	1	0	0
Totals	1	0	0

Note: The term “Franchise Agreements” means Area Director Agreements relating to the Area Director Business. “Franchised Outlets” means Area Director Businesses and “Company-Owned Outlets” means Area Director Businesses.

A list of HAPPY JOE'S Area Director Businesses as of September 30, 2023, are attached as Exhibit F. Also attached as Exhibit F are the names, city and state, and telephone numbers of every area director who has had an Area Director Agreement terminated, canceled, not renewed or otherwise voluntarily or involuntarily ceased to do business under the Area Director Agreement during the year ending September 30, 2023, or who has not communicated with the franchisor within 10 weeks of the 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 three fiscal years, no current or former area directors have signed agreements restricting their ability to speak openly about the Happy Joe’s franchise system.

The following is a trademark-specific franchisee association that was created and is sponsored by us: Happy Joe’s National Franchise Board, 5239 Grand Avenue, Davenport, Iowa, 52807, Kari White, President, (563)-212-9922. There are no franchisee organizations that have asked to be disclosed in our disclosure document.

## ITEM 21 FINANCIAL STATEMENTS

Attached as Exhibit A are our unaudited balance sheets as of December 31, 2023 and the related statements of income and retained earnings and cash flows for the three months ended December 31, 2023.

Also attached are our audited balance sheets as of September 30, 2023, 2022 and 2021 and the related statements of income and retained earnings and cash flows for the years ended September 30, 2023, 2022 and 2021. Our fiscal year end is September 30.

## ITEM 22 CONTRACTS

The following contracts are included in this disclosure document:

Exhibit B – Area Director Agreement and state addenda

## ITEM 23 RECEIPTS

Attached as the last two pages of this disclosure document are duplicative Receipts. Please sign and date both copies of the Receipt. Keep on signed copy of the Receipt for your file and return to us the other signed copy of the Receipt. The Receipt contains the names of our franchise sellers or brokers.

## STATE APPENDIX TO THE FRANCHISE DISCLOSURE DOCUMENT

### FOR THE STATE OF MINNESOTA

Item 13 of the franchise disclosure document is supplemented by the following:

"In the event Area Director's right to the use of any name, mark or commercial symbol licensed hereunder is the subject of any claim, suit or demand (a "threat"), Franchisor shall either defend Area Director against the threat or indemnify Area Director from any loss, costs or expenses arising therefrom, provided and on condition, Area Director:

- A. delivers to Franchisor prompt written notice of the threat;
- B. grants Franchisor written authorization to take unrestricted control over the defense and settlement of the threat with counsel of its choice;
- C. did not cause or give rise to the threat due to a material failure to comply with Franchisor's previously communicated trademark usage requirements;
- D. cooperates promptly and fully with Franchisor in the defense, mitigation, and/or settlement of the threat; and
- E. does not jeopardize or compromise any right, defense, obligation or liability of Franchisor, by making any statement to, or entering into any agreement with, the threatening party which does not have the advance written consent of Franchisor, unless required by applicable law."

Item 17 of the franchise disclosure document is supplemented by the following:

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 (1) a franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of the Area Director Agreement and (2) that consent to the transfer of the franchise will not be unreasonably withheld.

To the extent that any condition, stipulation, or provision contained in the Area Director Agreement (including any choice of law provision) purports to require any person who, at the time of acquiring a franchise is a resident of Minnesota, or, in the case of a partnership or corporation, organized or incorporated under the laws of Minnesota, or purporting to bind a person acquiring any franchise to be operated in Minnesota, to waive compliance with the Minnesota Franchises Law, such condition, stipulation, or provision may be void and unenforceable under the non-waiver provision of the Minnesota Franchises Law.

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.

Minnesota Rule 2860.4400(D) prohibits a franchisor from requiring a franchisee to assent to a general release.

The Contractual Limitations Period (Section 21.7) 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 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.

**HAPPY JOE'S FRANCHISING, INC.**  
FINANCIAL STATEMENTS  
EXHIBIT A TO THE FRANCHISE DISCLOSURE DOCUMENT

**Happy Joe's Franchising, Inc**  
**Balance Sheets**  
**As of December 31, 2023 and 2022**

	<b>2023</b>	<b>2022</b>
Assets		
Current Assets:		
Cash	\$ 1,528	\$ 16,852
Accounts Receivable, net	98,280	112,364
Inventory	28,719	25,500
Prepaid Expenses	187,480	131,459
Due from Affiliates	496,654	163,460
Total Current Assets	812,661	449,635
Intangible assets, net	1,356,921	1,699,302
Total Assets	\$ 2,169,581	\$ 2,148,937
Liabilities and stockholder's equity:		
Current liabilities:		
Accounts payable	\$ 36,083	\$ 18,486
Total Current Liabilities	36,083	18,486
Deferred revenue	663,943	483,945
Total Liabilities	700,027	502,431
Stockholder's equity:		
Common stock, no par value; 100,000 shares authorized, 10,000 shares issued and outstanding	50,000	50,000
Additional paid-in capital	3,191,000	3,191,000
Retained deficit	(1,771,445)	(1,594,494)
Total Stockholders' Equity	1,469,555	1,646,506
Total Liabilities & Stockholders' Equity	\$ 2,169,581	\$ 2,148,937



**Happy Joe's Franchising, Inc**  
**Statement of Operations**  
**For Three Months Ending December 31, 2023 and 2022**

	<b>2023</b>	<b>2022</b>
Revenues:		
Sales		
Royalties and franchise fees	\$ 330,225	\$ 324,952
Commissary sales	4,517	3,337
Total Revenues	334,742	328,289
Costs and expenses:		
Cost of commissary sales and commissions	8,860	4,482
Payroll and related costs	114,149	110,231
Operating expenses	204,167	140,492
Costs and expenses before amortization	327,176	255,205
Other costs and expenses:		
Amortization	101,911	101,911
Loss before income tax	(94,345)	(28,827)
Income tax expense		
Net loss	\$ (94,345)	\$ (28,827)

**HAPPY JOE'S FRANCHISING, INC.**

**AUDITED FINANCIAL STATEMENTS**

**Years Ended September 30, 2023, 2022, and 2021**

# HAPPY JOE'S FRANCHISING, INC.

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## **INDEPENDENT AUDITOR'S REPORT**

To the Stockholder  
Happy Joe's Franchising, Inc.

### **Opinion**

We have audited the financial statements of Happy Joe's Franchising, Inc. (the Company), which comprise the balance sheets as of September 30, 2023, 2022 and 2021, and the related statements of operations, stockholder's equity, and cash flows for the years then ended, and the related notes to the financial statements.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Company as of September 30, 2023, 2022 and 2021, 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 (GAAP).

### **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 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 audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### **Responsibilities of Management for the Financial Statements**

Management is responsible for the preparation and fair presentation of the financial statements in accordance with GAAP, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the 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 financial statements are issued.

## **Auditor's Responsibilities for the Audit of the Financial Statements**

Our objectives are to obtain reasonable assurance about whether the 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 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 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 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 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.

*UHY LLP*

West Des Moines, Iowa  
January 29, 2024

**HAPPY JOE'S FRANCHISING, INC.**  
**BALANCE SHEETS**

	September 30,		
	2023	2022	2021
<b>Assets (Note 3)</b>			
Current assets:			
Cash	\$ 9,691	\$ 35,222	\$ 71,556
Accounts receivable, net	98,967	117,210	187,887
Inventory	31,506	25,805	31,963
Prepaid expenses	138,469	123,600	6,012
Due from affiliates	357,587	111,872	-
Total current assets	<u>636,220</u>	<u>413,709</u>	<u>297,418</u>
Intangible assets, net	1,446,463	1,788,127	1,941,192
Total assets	<u>\$ 2,082,683</u>	<u>\$ 2,201,836</u>	<u>\$ 2,238,610</u>
<b>Liabilities and stockholder's equity</b>			
Current liabilities:			
Accounts payable	\$ 32,738	\$ 21,520	\$ 47,293
Due to affiliates	-	-	46,452
Deferred revenue	486,045	504,983	167,183
Total current liabilities	<u>518,783</u>	<u>526,503</u>	<u>260,928</u>
Commitments and contingency (Note 3)			
Stockholder's equity:			
Common stock, no par value; 100,000 shares authorized, 10,000 shares issued and outstanding	50,000	50,000	50,000
Additional paid-in capital	3,191,000	3,191,000	3,191,000
Accumulated deficit	(1,677,100)	(1,565,667)	(1,263,318)
Total stockholder's equity	<u>1,563,900</u>	<u>1,675,333</u>	<u>1,977,682</u>
Total liabilities and stockholder's equity	<u>\$ 2,082,683</u>	<u>\$ 2,201,836</u>	<u>\$ 2,238,610</u>

**HAPPY JOE'S FRANCHISING, INC.**  
**STATEMENTS OF OPERATIONS**

	<b>Years Ended September 30,</b>		
	<b>2023</b>	<b>2022</b>	<b>2021</b>
Revenues:			
Royalties and franchise fees	\$ 1,357,335	\$ 1,285,588	\$ 1,289,165
Trademark fees and other income	-	25,317	143,094
Commissary sales	20,736	22,599	25,503
Exclusivity rebates	-	2,195	30,028
Total revenues	<u>1,378,071</u>	<u>1,335,699</u>	<u>1,487,790</u>
Costs and expenses:			
Cost of commissary sales and commissions	23,321	30,874	27,063
Payroll and related costs	462,424	470,252	689,556
Operating expenses	702,588	802,872	722,918
Amortization	356,028	334,050	319,100
Total costs and expenses	<u>1,544,361</u>	<u>1,638,048</u>	<u>1,758,637</u>
Other income	54,857	-	-
Loss before income tax	<u>(111,433)</u>	<u>(302,349)</u>	<u>(270,847)</u>
Income tax expense	-	-	-
Net loss	<u>\$ (111,433)</u>	<u>\$ (302,349)</u>	<u>\$ (270,847)</u>

**HAPPY JOE'S FRANCHISING, INC.**  
**STATEMENTS OF STOCKHOLDER'S EQUITY**  
**Years Ended September 30, 2023, 2022 and 2021**

	<u>Common Stock</u>	<u>Additional Paid-In Capital</u>	<u>Accumulated Deficit</u>	<u>Total</u>
Balance at September 30, 2020	\$ 50,000	\$ 3,191,000	\$ (894,718)	\$ 2,346,282
Cumulative-effect adjustment in connection with the adoption of ASU 2014-09	-	-	(97,753)	(97,753)
Net loss	-	-	(270,847)	(270,847)
Balance at September 30, 2021	<u>50,000</u>	<u>3,191,000</u>	<u>(1,263,318)</u>	<u>1,977,682</u>
Net loss	-	-	(302,349)	(302,349)
Balance at September 30, 2022	<u>50,000</u>	<u>3,191,000</u>	<u>(1,565,667)</u>	<u>1,675,333</u>
Net loss	-	-	(111,433)	(111,433)
Balance at September 30, 2023	<u><u>\$ 50,000</u></u>	<u><u>\$ 3,191,000</u></u>	<u><u>\$ (1,677,100)</u></u>	<u><u>\$ 1,563,900</u></u>

**HAPPY JOE'S FRANCHISING, INC.**  
**STATEMENTS OF CASH FLOWS**

	<b>Years Ended September 30,</b>		
	<b>2023</b>	<b>2022</b>	<b>2021</b>
<b>Operating activities</b>			
Net loss	\$ (111,433)	\$ (302,349)	\$ (270,847)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:			
Amortization	356,028	334,050	319,100
Changes in working capital components:			
Accounts receivable	18,243	70,677	(11,218)
Inventory	(5,701)	6,158	(105)
Prepaid expenses	(14,869)	(117,588)	2,828
Accounts payable	11,218	(25,773)	39,296
Deferred revenue	(18,938)	337,800	38,458
Due from/to affiliates	(245,715)	(158,324)	(57,071)
Net cash provided by (used in) operating activities	<u>(11,167)</u>	<u>144,651</u>	<u>60,441</u>
<b>Investing activities</b>			
Purchase of intangible assets	(14,364)	(180,985)	-
Net cash used in investing activities	<u>(14,364)</u>	<u>(180,985)</u>	<u>-</u>
Net increase (decrease) in cash	(25,531)	(36,334)	60,441
Cash at beginning of year	35,222	71,556	11,115
Cash at end of year	<u>\$ 9,691</u>	<u>\$ 35,222</u>	<u>\$ 71,556</u>

**HAPPY JOE'S FRANCHISING, INC.**  
**NOTES TO FINANCIAL STATEMENTS**  
**September 30, 2023, 2022 and 2021**

**NOTE 1 — NATURE OF BUSINESS AND SIGNIFICANT ACCOUNTING POLICIES**

**Nature of Business**

Happy Joe's Franchising, Inc. (the Company) was incorporated on August 29, 2000. The operations of the Company consist of franchisor rights for 36 (as of September 30, 2023) franchised and licensed pizza and ice cream stores located in the Midwest region of the United States and the granting of franchises for future Happy Joe's restaurants. On October 24, 2017, the Company's shareholder sold the outstanding common stock of the Company to Dynamic Restaurant Franchising, Inc. (DRF), a subsidiary of Dynamic Restaurant Holdings, LLC (DRH), with the intent of growing the franchising operations of the Happy Joe's brand in collaboration with other current and future regional pizza concepts owned by DRH.

**Cash**

Cash consists of deposits in federally insured financial institutions with original maturities of less than three months.

**Accounts Receivable**

Accounts receivable are carried at original invoice amount less an estimate for doubtful receivables. Management determines the allowance for doubtful accounts by identifying troubled accounts and using historical bad debt experience. Accounts receivable are written off when deemed uncollectible, and recoveries of written off accounts are recorded when received. The allowance for doubtful receivables balance was \$7,636, \$4,700, and \$4,700 as of September 30, 2023, 2022, and 2021, respectively.

**Inventory**

Inventory consists of commissary products and is stated at the lower of cost or net realizable value. Cost has been determined for substantially all inventory under the average cost method.

**Intangible Assets, Net**

Intangible assets represent franchise rights and prototype development costs. Intangible assets are reported at cost (measured at fair value on the acquisition date), net of accumulated amortization, and are amortized on a straight-line basis over the estimated useful life, which is ten years for franchise rights and five for prototype development costs. Intangible assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of these assets may not be recoverable. No impairments were identified for the years ending September 30, 2023, 2022, and 2021.

**HAPPY JOE'S FRANCHISING, INC.**  
**NOTES TO FINANCIAL STATEMENTS**  
**September 30, 2023, 2022 and 2021**

**NOTE 1 — NATURE OF BUSINESS AND SIGNIFICANT ACCOUNTING POLICIES (Continued)**

**Revenue Recognition**

Revenues consist primarily of franchise revenue, which includes franchisee royalties.

The Company adopted Accounting Standards Update (ASU) 2014-09, *Revenue from Contracts with Customers*, in 2021. Based on this guidance, the Company recognizes revenue when it satisfies a performance obligation by transferring control over a product or service to a customer, typically a franchisee/licensee.

*Royalties and Franchise Fees*

Revenues the Company receives from franchise and license agreements include sales-based royalties, franchisee fees, and area development fees. The Company recognizes sales-based royalties from franchisees and licensees as the underlying sales occur. The Company also provides its franchisees with services associated with opening new restaurants and operating them under franchise and development agreements in exchange for area development and franchise fees. The Company has adopted ASU 2021-02, *Franchisors – Revenue from Contracts with Customers (Practical Expedient)*, as of October 1, 2020, which allows these activities to be recognized as revenue when performed, typically at the point the franchise is opened. Upfront fees collected that represent a franchise license fee are capitalized and recognized over the contracted franchise term as the services comprising the performance obligations are satisfied, typically over 10 to 15 years. Revenues for area development agreements are recognized as new franchises within the area are opened. All franchise license fees and fees collected under area development agreements that have not yet been earned are recorded as deferred revenue.

*Trademark Fees*

The Company receives fees in connection with the use of the Happy Joe's trademarks and logos, which are recorded as income when earned, generally on a straight-line basis over the term of the contract.

*Other Revenues*

Revenues for commissary sales, exclusivity rebates, annual franchise meeting, and other revenue are recognized when earned, which is usually a point-in-time when the products are sold or service is provided. Revenues from the annual franchise meeting are presented net of related costs and are recognized once the annual meeting occurs. The Company presents all sales net of sales-related taxes.

**HAPPY JOE'S FRANCHISING, INC.**  
**NOTES TO FINANCIAL STATEMENTS**  
**September 30, 2023, 2022 and 2021**

**NOTE 1 — NATURE OF BUSINESS AND SIGNIFICANT ACCOUNTING POLICIES (Continued)**

**Revenue Recognition (Continued)**

In accordance with the new revenue standard requirements, the impact of adoption on the balance sheet as of September 30, 2021, and statement of operations for the year ended September 30, 2021, was as follows:

	<u>As Reported</u>	<u>Balances without ASU 2014-09</u>	<u>Effect of Change</u>
Deferred revenue	\$ 167,183	\$ 101,750	\$ 65,433
Accumulated deficit	(1,263,318)	(1,197,885)	(65,433)
Royalties and franchise fees	\$ 1,289,165	\$ 1,256,845	\$ 32,320
Net loss	(270,847)	(303,167)	(32,320)

The adoption of ASU 2014-09 has no impact on cash flows from operations.

**Income Taxes**

For the years ending September 30, 2023, 2022 and 2021, income taxes are accounted for using a liability method and provide for the tax effects of transactions reported in the financial statements. Deferred taxes are adjusted to reflect deferred tax consequences at current enacted tax rates. Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. The deferred tax assets and liabilities represent the future tax return consequences of those differences, which will either be taxable or deductible, when the assets and liabilities are recovered or settled. The Company has evaluated its income tax positions and has determined that there are no uncertain income tax positions that need to be recorded or reported in the financial statements at September 30, 2023, 2022 and 2021.

**Use of Estimates**

The preparation of 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 and liabilities, disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenue and expenses during the reporting periods. Actual results could differ from those estimates.

**HAPPY JOE'S FRANCHISING, INC.**  
**NOTES TO FINANCIAL STATEMENTS**  
**September 30, 2023, 2022 and 2021**

**NOTE 2 — INTANGIBLE ASSETS**

Intangible assets consist of franchise rights and prototype costs summarized as follows at September 30:

	<u>2023</u>	<u>2022</u>	<u>2021</u>
Franchise agreements	\$ 3,191,000	\$ 3,191,000	\$ 3,191,000
Prototype	195,349	180,985	-
Intangible assets, cost	3,386,349	3,371,985	3,191,000
Accumulated amortization	<u>1,939,886</u>	<u>1,583,858</u>	<u>930,708</u>
	<u>\$ 1,446,463</u>	<u>\$ 1,788,127</u>	<u>\$ 2,260,292</u>

Amortization expense is expected to be as follows:

Fiscal year ending:	
2024	\$ 358,170
2025	358,170
2026	358,170
2027	343,220
2028	<u>28,733</u>
	<u>\$ 1,446,463</u>

**NOTE 3 — PLEDGE AGREEMENT AND TRANSACTIONS WITH AFFILIATES**

DRH and its affiliates entered into a financing arrangement with a bank on October 24, 2017 to provide a credit facility to be used for acquisitions and general working capital. All issued and outstanding ownership interests in the Company and its affiliates are pledged in connection with the agreement in addition to providing a security interest in substantially all assets of the Company, DRH, and its affiliates. The original arrangement provided a note payable, that was repaid during 2019, and a revolving credit note, allowing borrowings up to \$500,000, amended to \$300,000 in 2020, which had no balance outstanding at September 30, 2021. The revolving credit note was not renewed in 2022.

DRH and its affiliates entered into a subordinated loan and investment arrangement with a member of DRH. All issued and outstanding ownership interests in the Company and its affiliates are pledged in connection with the agreement in addition to providing a security interest in substantially all assets of the Company, DRH and its affiliates, which is subordinate to the bank security interest. The balance of the member note was \$6,017,545 at September 30, 2023, \$5,291,544 at September 30, 2022, and \$4,989,346 at September 30, 2021, and is included in the DRH financial statements.

The Company shares certain administrative and overhead expenses with DRH and other affiliates under common ownership. The Company's share of these expenses was \$796,463, \$923,683, and \$1,221,755 for the years ended September 30, 2023, 2022 and 2021, respectively. These costs are recorded as a component of both payroll and related costs and operating expenses in the statements of operations.

The Company sold \$7,945, \$11,217, and \$16,793 of commissary items to affiliates for the years ended September 30, 2023, 2022, and 2021, respectively.

**HAPPY JOE'S FRANCHISING, INC.**  
**NOTES TO FINANCIAL STATEMENTS**  
**September 30, 2023, 2022 and 2021**

**NOTE 4 — INCOME TAX**

Total income taxes for the years ended September 30, 2023, 2022 and 2021, differed from the amount of income taxes computed by applying the United States federal income tax rate. The reasons for such differences are as follows:

	<u>2023</u>	<u>2022</u>	<u>2021</u>
Computed "expected" taxes (benefit)	\$ (23,000)	\$ (63,000)	\$ (57,000)
State income tax effect, net of federal tax benefit	2,600	(4,200)	(11,000)
Other	(21,600)	(25,800)	(9,000)
Change in valuation allowance	<u>42,000</u>	<u>93,000</u>	<u>77,000</u>
Net income tax expense (benefit)	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

Temporary differences between the financial statement basis and the income tax basis of assets and liabilities of the Company and the related deferred tax assets (liabilities) at September 30, 2023, 2022 and 2021 are as follows:

	<u>2023</u>	<u>2022</u>	<u>2021</u>
Net operating loss carryforwards	\$ 174,000	\$ 191,000	\$ 169,000
Intangible assets	135,000	149,000	119,000
Other	116,000	43,000	2,000
Valuation allowance	<u>(425,000)</u>	<u>(383,000)</u>	<u>(290,000)</u>
Net deferred tax assets	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

The net deferred tax assets are reduced by a valuation allowance as management has determined it is more likely than not that some portion or all of the deferred tax assets will not be realized. At September 30, 2023, the Company had a federal net operating loss carryforward of approximately \$167,000, which expires in 2038, and a federal net operating loss of \$509,000 with an unlimited carryforward period and subject to an 80% utilization against future taxable earnings.

**NOTE 5 — LIQUIDITY**

The Company has incurred net losses of approximately \$111,000, \$302,000, and \$271,000 for the years ended September 30, 2023, 2022, and 2021, respectively. Due to the transition to new management, activities initiated to reduce expenses, and amortization of intangible assets. Management plans to continue to reduce expenses and increase revenues from new branding strategies to bring the Company stable, positive cash flows from operations in the future.

**NOTE 6 — SUBSEQUENT EVENTS**

The Company has evaluated all subsequent events through January 29, 2024, the date which the financial statements were available to be issued.

**HAPPY JOE'S FRANCHISING, INC.**  
AREA DIRECTOR AGREEMENT  
EXHIBIT B TO THE FRANCHISE DISCLOSURE DOCUMENT



**HAPPY JOE'S PIZZA  
AREA DIRECTOR AGREEMENT**

**HAPPY JOE'S  
AREA DIRECTOR AGREEMENT  
SUMMARY PAGES**

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

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

Name of Area Director: \_\_\_\_\_

Area Director Office Address: \_\_\_\_\_

Key Person: \_\_\_\_\_

Pilot Restaurant Address: \_\_\_\_\_

Territory: \_\_\_\_\_

Area Director Fee: \$ \_\_\_\_\_

Sales Commission: \_\_\_\_\_

Services Commission: \_\_\_\_\_

Area Director's Proportion: \_\_\_\_\_ Percent (%)

Renewal Fee: \$ \_\_\_\_\_

Development Schedule:

Development Period	Number of Restaurants to be Developed During the Development Period	Total Number of Restaurants to be Open and Operating
<b>Total</b>		

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Exhibits

- Exhibit A – Glossary of Additional Terms
- Exhibit B – Personal Guaranty and Undertaking
- Exhibit C – Confidentiality and Noncompetition Agreement

**HAPPY JOE'S PIZZA**  
**AREA DIRECTOR AGREEMENT**

This Area Director Agreement (“**Agreement**”) is made and entered into on the Effective Date by and among Happy Joe’s Franchising, Inc. (“**Franchisor**”) and the Area Director identified in the Summary Pages.

**BACKGROUND**

A. Franchisor has acquired rights to a business format and operating system (“**System**”) for developing and operating a HAPPY JOE’S restaurant featuring a family-friendly, fun atmosphere and menu items consisting of pizza, ice cream, and related food items, including breakfast foods.

B. Area Director has applied to Franchisor for the right to perform certain franchise-related services within the Territory defined in the Summary Pages, and Franchisor desires to grant Area Director the right to perform such services, all pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, the parties, in consideration of the mutual undertakings and commitments set forth herein, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

**1 APPOINTMENT AND KEY PERSON**

1.1 Appointment. Franchisor hereby appoints Area Director as its agent in the Territory to solicit the sale of Franchises and to perform the services described in this Agreement, all pursuant to the terms and conditions of this Agreement. Area Director accepts this appointment and agrees to use best efforts to perform the obligations stated herein. If the area director is an individual, the individual must participate personally in the direct operation of the Area Director Business. If Area Director is a Business Entity, the Business Entity must designate a person to act as the Area Director’s “Key Person.” The name of Area Director’s initial Key Person is reflected on the Summary Page. If the Key Person leaves such position, Area Director shall designate a replacement Key Person within 30 days following the vacancy left by the prior Key Person. The Key Person must have and maintain a controlling interest in the Area Director Business Entity, must attend and satisfactorily complete Franchisor’s initial training program for new franchisees, and must satisfy Franchisor’s then-current criteria for the position, including business and restaurant experience.

1.2 Reservation of Rights. Franchisor and its Affiliates retain all rights not granted to Area Director hereunder. These include (a) the right to advertise for and communicate with franchise candidates who may ultimately develop a Franchised Restaurant in the Territory, and (b) the right to develop and operate one or more Company-owned Restaurants in the Territory. Nothing in this Agreement restricts Franchisor’s and its Affiliates’ right to distribute products identified by the Marks anywhere in the world, including in the Territory.

**2 TERM AND RENEWAL**

2.1 Term. The initial term of this Agreement begins on the Effective Date and expires on the Expiration Date.

2.2 Option to Extend Term. Area Director shall have an option to renew the rights granted by this Agreement for additional renewal terms (each a “Renewal Term”) of 10 years each if each of the following conditions have been met:

- 2.2.1 Area Director has met its development obligations and otherwise is in full compliance with its obligations under this Agreement;
- 2.2.2 Area Director has fully complied with its obligations under this Agreement during the current term;
- 2.2.3 The parties mutually agree on a development schedule for the renewal term not later than 120 days prior to the end of the initial term.
- 2.2.4 Area Director and such employees as Franchisor may require attend, at Area Director’s expense, and successfully complete such training or refresher courses as Franchisor requires;

- 2.2.5 Area Director pays a renewal fee in the amount reflected on the Summary Page;
- 2.2.6 Area Director signs a general and full release of any and all claims against Franchisor and its Affiliates.

### **3 AREA DIRECTOR FEE**

3.1 Area Director Fee. Upon execution of this Agreement, Area Director shall pay to Franchisor the Area Director Fee in the amount and in the manner reflect on the Summary Pages. The Area Director Fee is fully earned and nonrefundable upon payment.

### **4 COMPENSATION**

4.1 Sales Commission. In consideration of the franchise sales services provided by Area Director hereunder, Franchisor shall pay to Area Director the Sales Commission for each Franchise Sale. The Sales Commission will be paid monthly on the 25<sup>th</sup> day of the month immediately following the month in which Franchisor receives payment of the entire Initial Franchise Fee and all required franchise documentation (including, without limitation, completed franchise applications, personal financial information, credit checks, and executed franchise agreement and amendment(s) if any) from or with respect to the Franchisee, whichever occurs later. If a Franchisee pays the Initial Franchise Fee in installments, Franchisor shall pay to Area Director the Sales Commission its proportionate share of each installment payment. If Franchisor, in its sole judgment, agrees to refund all or a part of a Franchisee's Initial Franchise Fee payment, at Franchisor's request, Area Director shall promptly return to Franchisor the Sales Commission received on the refunded amount.

4.2 Services Commission. In consideration of the franchise services provided by Area Director hereunder, Franchisor shall pay to Area Director the Services Commission for each Franchised Restaurant operating in the Territory. For avoidance of doubt, (a) no commission shall be payable with respect to the development or operation of a Company-owned Restaurant and (b) Area Director is not entitled, under this Agreement, to any portion of any renewal fees, transfer fees, or other fees or amounts that a franchisee may pay to Franchisor, or to any rebate, incentive payments, or any other payment that a contractor, vendor, or supplier may pay to Franchisor. The Services Commission will be paid on the 25<sup>th</sup> day of the month immediately following last day of the month following the month in which Royalty Fees were received. Notwithstanding anything contained in this Agreement to the contrary, Franchisor shall have no obligation to Area Director for Ongoing Commissions pursuant to this Article 4 (and none of such amounts will accrue) for any month: **(a)** with respect to any Store for which Area Director has failed to provide services or conduct evaluations or provide reports during such month; or **(b)** with respect to any particular Franchisee who was not in compliance with all of the terms of its Franchise Agreement during such month.

4.3 Right to Offset. Franchisor may offset any monies owed to Area Director pursuant to this Agreement against any amounts owed by Area Director to Franchisor.

4.4 Notice of Dispute. By January 31<sup>st</sup> of each year during the term of this Agreement, Area Director shall notify Franchisor, in writing, of any dispute relating calculation or payment of the commissions provided for in this Article 4 for the prior calendar year. Area Director's failure to notify Franchisor of a dispute by this date shall constitute a release of all claims concerning the calculation or payment of all commissions provided for this in Article 4 from the beginning of time through December 31<sup>st</sup> of the prior calendar year.

### **5 TRAINING AND RESOURCES**

5.1 Initial Training. Area Director and such other personnel as Franchisor deems appropriate shall attend and successfully complete Franchisor's initial training program for area directors. Training will be conducted at the place Franchisor designates. There is no fee for such training, but Area Director will be responsible for all training-related expenses including travel, lodging, meals, and salary expense for Area Director employees who attend training.

5.2 Additional Training. Area Director and such other personnel as Franchisor deems appropriate shall attend and successfully complete such additional training programs as Franchisor deems

appropriate, in its discretion. Training will be conducted at the place Franchisor designates. Franchisor shall have the right to charge a reasonable fee for such training, and Area Director will be responsible for all training-related expenses including travel, lodging, meals, and salary expense for Area Director employees who attend training.

5.3 We will loan you one copy of or provide you electronic access to the Manuals.

## **6 DEVELOPMENT SERVICES AND SCHEDULE**

6.1 Development Obligations. Area Director shall use best efforts to solicit and identify candidates who desire to establish one or more HAPPY JOE'S PIZZA Restaurant franchises in the Territory, and shall cause to occur at least the minimum number of Franchise Sales reflected in the Development Schedule. Area Director shall contact and confer with each such candidate in accordance with policies and procedures established by Franchisor (which may include, among other things, response times).

6.2 Customer Relationship Management System. Area Director shall acquire, at Area Director's expense, and use such customer relationship management software and accounting software as Franchisor prescribes for use by Area Director, and shall acquire and use all computer hardware components necessary for effective use of such software.

6.3 Screening Services. Area Director shall obtain from each Franchise candidate such personal and financial information as Franchisor may require from time to time, and shall conduct, at Area Director's expense, such background and credit checks of the type that Franchisor prescribes.

6.4 Reporting. Area Director shall deliver to Franchisor, at such times and in the form and manner Franchisor requests, such information as Franchisor requires concerning Area Director's franchise sales and advertising activities (including, without limitation, the type and frequency of advertising conducted by Area Director), copies all information received in the form of franchise sales leads, all franchise applications, the results of all background and credit checks, and any other information that Franchisor may request concerning the solicitation and/or qualification of Franchise candidates.

6.5 Legal and Marketing Materials. At Area Director's reasonable request, Franchisor shall provide to Area Director, at Franchisor's then-current rates, copies of requisite disclosure and contractual documents, brochures, advertising formats, and related materials.

6.6 Legal and Policy Requirements; Cooperation with Franchisor. Obligations. In connection with the offer and sale of Franchises under this Agreement, Area Director shall:

6.6.1 Provide information contained and consistent with Franchisor's then-current disclosure documents, and refrain from providing additional or inconsistent information;

6.6.2 Refrain from providing oral or written representations, warranties, claims, or other information with respect to the historical or anticipated revenues, expenses, or profits of franchised Restaurants, except as expressly authorized in writing by Franchisor;

6.6.3 Comply with all laws and regulations in connection with the offer and sale of Franchises; and

6.6.4 Cooperate with Franchisor in facilitating the execution of Franchise Agreement(s).

6.7 Franchisor's Right to Approve Franchise Candidates. The parties acknowledge and agree that Franchisor has the exclusive right to approve or reject any Franchise candidate for any reason or for no reason, and the exclusive right to negotiate or refuse to negotiate the terms of any Franchise Agreement (including, without limitation, reduction of Initial Franchise Fees), in its sole discretion.

6.8 No Authority to Offer, Grant, Sell, or Negotiate Sale of Franchises. Franchisor shall prepare, enter into, and arrange for execution and delivery of all Franchise Agreements. Area Director acknowledges that Area Director has no authority to and shall not offer, grant, sell, or negotiate the sale of any Franchise or otherwise enter into any agreement or understanding, oral or written, relating to any Franchise.

6.9 Expenses.

6.9.1 Area Director shall be responsible to pay Area Director's Proportion (as defined in the Summary Page) of the following fees and expenses: (a) Franchisor's administrative and legal costs associated with each Franchise Sale including, without limitation, delivery of franchise disclosure documents, creating and maintaining the franchisee file, qualifying the franchise candidate, and coordinating the completion, execution, and return of all franchise-related documents; (b) the legal costs of preparing and arranging for execution of the Franchise Agreements, (c) all costs related to negotiation of any terms of the Franchise Agreement and preparation of an amendment (if any) reflecting negotiated terms, and (d) all costs relating to registering or filing a notice of negotiated changes in accordance with any state franchise law. Area Director shall pay such amounts upon demand by Franchisor or Franchisor, as applicable.

6.10 Franchise Enforcement Efforts and Expenses. Area Director shall assist Franchisor in the enforcement of all Franchise Agreements and ancillary agreements and the defense of any claims relating to Franchisor's business in the Territory including, without limitation, claims arising out of or relating to the offer or sale of the HAPPY JOE'S PIZZA franchise opportunity and the parties' relationships created thereby. If Franchisor or its Affiliates incur liabilities or expenses to enforce or defend any such agreement, or to defend against claims made by prospective franchisees, Area Director shall be responsible to pay Area Director's Proportion (as defined in the Summary Page) of all liabilities and expenses. These liabilities and expenses include, without limitation, mediator's fees, arbitrator's fees, filing fees, court costs, attorneys' fees, expert and other witness fees, settlements, judgments (including punitive damages), travel expenses, and the same such fees relating to any related appeals. If such actions require Area Director to incur travel expenses outside the Territory, of the Area Director will be responsible for their own expenses.

## **7 COMPLIANCE WITH LAWS AND REQUIRED PROCEDURES**

7.1 Preparation and Update of Franchise Disclosure Document. Franchisor shall make available to Area Director an electronic copy of its current Franchise Disclosure Document ("FDD"), as it exists from time to time. The parties acknowledge that Franchisor may modify or amend the FDD at any time, in its sole discretion. Franchisor shall promptly make available to Area Director an electronic copy of any modified or amended FDD. Area Director shall:

7.1.1 Provide to Franchisor all information reasonably required by Franchisor to prepare the FDD and ancillary documents for offering Franchises in the Territory;

7.1.2 Sign and return to Franchisor all documentation reasonably required by Franchisor or its designee for purposes of registering the HAPPY JOE'S PIZZA Restaurant franchise offering in the Territory or in any state in which the Territory is wholly or partially located; and

7.1.3 Review the FDD and all ancillary documents prepared by Franchisor on behalf of Area Director. Franchisor shall not be liable to Area Director for any errors or omissions relating to such documents.

7.2 Delivery of Franchise Disclosure Document; Other Laws. Area Director shall comply with all applicable federal and state laws, rules, and regulations governing the offering of Franchises in the Territory. To this end, Area Director shall:

7.2.1 Furnish to prospective Franchisees only the FDD that Franchisor designates, along with such promotional material that Franchisor has designated or approved for such purpose;

7.2.2 Comply with all requirements for timing of delivery of the FDD, obtain a signed and dated FDD Receipt page from each Franchise candidate, and promptly deliver such receipt to Franchisor.

7.2.3 Refrain from making any representations or other statements that conflict with any of the information contained in the FDD, including Franchisor's then-current Franchise Agreement;

7.2.4 Refrain from making any financial performance representations, earnings claims or financial projections, or providing any information with regard to sales, revenues, income, costs, or expenses relating to any Franchisor-owned or franchised HAPPY JOE'S PIZZA Restaurants;

provided, that Area Director shall have the right to convey information contained in Item 19 of Franchisor's then-current FDD;

7.2.5 Promptly notify Franchisor of any material information or event which comes to Area Director's attention that may require disclosure in the FDD; and

7.2.6 Use, display, publish, and distribute for purposes of soliciting prospective Franchisees, only advertising, marketing, and promotional materials that Franchisor has previously approved as acceptable for use in the Territory.

7.3 Franchisor shall register the HAPPY JOE'S PIZZA Restaurant franchise offering and/or make the appropriate filings in all states requiring registration or filing; provided that Area Director shall reimburse Franchisor an amount equal to 50% of all costs and expenses (including legal fees and state filing fees) incurred in connection with obtaining and maintaining such registrations and filings in any state in which the Territory is located.

7.4 Area Director shall register and/or obtain licensure as a franchise broker or otherwise in any jurisdiction in which Area Director is required to do so, and shall maintain such registration or licenses throughout the term of this Agreement, at its sole cost and expense. Area Director shall not solicit prospective Franchisees until: (a) such registration or license, if necessary, is effective; and (b) Area Director has provided to Franchisor documentary proof of its effectiveness.

7.5 Area Director shall otherwise comply with all federal, state, and local laws, statutes, ordinances, rules, and regulations governing the sale of or offers to sell franchises.

7.6 Area Director shall comply with Franchisor's procedures and policies concerning communications with Franchisees and prospective Franchisees and shall provide such evidence of compliance as Franchisor may request.

## **8 AREA DIRECTOR'S OTHER CONTINUING OBLIGATIONS**

8.1 Delivery Service Account. Area Director shall establish and maintain an account with the expedited delivery service provider designated by Franchisor (e.g., FedEx, etc.), and provide to Franchisor all relevant account information, including Area Director's account number. Area Director hereby authorizes Franchisor to ship all documents and other materials related to the business contemplated hereunder via such service provider, and to designate Area Director's account as the billing reference for such shipments.

8.2 Credit Card. Area Director shall establish and maintain an active credit card account with a provider approved by Franchisor. For purposes of this Agreement, MASTERCARD, VISA, and AMERICAN EXPRESS shall be considered approved credit card providers. Area Director hereby authorizes Franchisor to charge to such credit card all payments due for purchases made by Area Director hereunder including, without limitation, payment of training fees, printing costs, and the purchase of equipment, inventory, supplies, delivery and shipping fees, marketing and promotional materials and attorneys' fees. Area Director shall provide to Franchisor, from time to time and upon request, all information concerning such credit card account as may be necessary to carry out the objectives contemplated by this paragraph.

8.3 Pilot Restaurant. Area Director shall at all time during the term of this Agreement and any renewals hereof own and operate, at a minimum, at least one HAPPY JOE'S PIZZA Restaurant meeting Franchisor's then-current image for new HAPPY JOE'S PIZZA Restaurants, which shall serve as both the flagship Restaurant in the Territory and serve as the location where training occur. Development and operation of the Pilot Restaurant will be governed by the terms and conditions of a separate franchise agreement between Franchisor and Area Director or an Area Director Affiliate.

8.4 No Vendor Payments. Area Director shall refrain from soliciting or accepting any rebate, brokerage commission discount, or other remuneration from any vendor or supplier of Franchisees or Franchisor (including any Franchisee's landlord or any commercial realtor who provided site selection services for any Franchisee or with respect to any Franchisee's Restaurant) from any other person with whom Franchisees or Franchisor do business.

8.5 No Franchisee Payments. Area Director shall refrain from soliciting or accepting any payment from Franchisees or prospective Franchisees, other than payments payable to Franchisor that are promptly forwarded to Franchisor, as applicable.

8.6 Site Selection Assistance. Area Director shall provide to Franchisees site selection assistance in accordance with site selection criteria established by Franchisor, as modified from time to time, and lease negotiation assistance, on terms and conditions satisfactory to Franchisor.

8.7 Construction Assistance. Area Director shall provide Franchisees guidance and assistance with respect to the construction and design of their Restaurants in accordance with Franchisor's design criteria, including initial Restaurant layout, construction, and/or build-out.

8.8 Pre-Opening and Continuing Assistance. Area Director shall provide Franchisees the pre-opening and continuing operating assistance described in Franchisees' Franchise Agreements, FDDs, Franchisor's operations manuals, and Franchisor's policies and procedures, as they may exist from time to time. These obligations include, without limitation, administering and providing the initial training program at such place as Franchisor reasonable designates.

8.9 Initial Training. Area Director shall provide Franchisor's initial training program to Franchisee's in the Territory. Training shall be provided at the Pilot Store or such other location(s) mutually agreed to by Franchisor and Franchisee. Notwithstanding the foregoing, Franchisor shall provide the initial training program to the first three Franchisees to sign Franchise Agreements for the development of Restaurants in the Territory.

8.10 Franchisee Communications and Compliance. Area Director or its representatives shall communicate with each Franchisee at least once every two weeks, visit each Restaurant one per calendar month, and conduct at least one field evaluation per calendar quarter with respect to each Restaurant to verify compliance with the terms and conditions of the Franchisees' Franchise Agreements, Franchisor's operating manuals and Franchisor's policies and procedures, as they may exist from time to time, and to confirm whether the quality of service and products is being maintained in accordance with Franchisor's requirements. Area Director shall provide written reports of those evaluations, containing the information required by Franchisor, to Franchisor (as requested) within 15 days after the end of the month in which the evaluation was performed. Area Director shall inspect each Restaurant no less than on a quarterly basis and shall deliver to Franchisor a comprehensive report with respect to each such inspection within 10 days after the inspection is completed. Franchisor may increase the frequency of required communications, Restaurant visits, and/or field evaluations and inspections in its sole discretion by delivering to Area Director written notice of such change. Area Director shall promptly provide to each Franchisee written notice of any deficiencies and shall deliver a copy of each such notice to Franchisor. Area Director acknowledges that its evaluations, notices, and reports are advisory only and that Franchisor will have: (a) all rights to evaluate and ascertain a Franchisee's compliance with its Franchise Agreement; (b) the sole right to send notices of default to Franchisees; (c) the sole right to terminate a Franchise Agreement; and (d) the sole right to take any legal action with respect to any breach of, or default under, a Franchise Agreement.

8.11 Enforcement of Franchise Agreements. Area Director shall use best efforts to cause Franchisees to: (a) comply with all applicable laws and regulations; (b) refrain from taking any action that would constitute a breach under its Franchise Agreement or that would be the basis for a claim or lawsuit by Franchisor; (c) ensure that Franchisees comply with the terms of their Franchise Agreements; and (d) meet Franchisor's standards for operating HAPPY JOE'S PIZZA Restaurants, monitor the conduct and activities of each Franchisee, and report such conduct and activities to Franchisor on such forms as Franchisor prescribes. Area Director shall report to Franchisor any known or suspected violations of any Franchisee's Franchise Agreement within 48 hours, or immediately in case of public safety violations, and apprise Franchisor of all steps that such Franchisee has taken to correct any reported violations. If, as a result of receiving such report, Franchisor elects to investigate such breach or default and/or determines that a breach or default has occurred, Franchisor may, in its sole discretion, take such action as it deems appropriate. The parties acknowledge and agree that Area Director shall have no independent right to enforce the terms of any Franchisee's Franchise Agreement; but Area Director shall reimburse Franchisor, at Franchisor's election, the same percent split as the revenue for all costs and expenses (including reasonable attorneys' fees) incurred by Franchisor in connection with the collection of delinquent payments (including Royalty Fee payments) from Franchisees to Franchisor.

8.12 Participation in Meetings and Conference Calls. At Franchisor's request, Area Director shall attend and participate in all Franchisee owner association and Franchisee advisory board meetings, participate in all Franchisee owner association and Franchisee advisory board conference calls, and timely

provide to Franchisor such information about the meetings or conference calls as Franchisor may request. At Franchisor's request, Area Director shall attend and participate in, at Area Director's expense, quarterly meetings with Franchisor and/or Franchisor at such location as Franchisor designates, and participate in weekly conference calls (or meetings) with Franchisor and/or Franchisor that may include, at Franchisor's election, other area directors.

8.13 Participation in Annual Convention and Other Events. At Franchisor's request, Area Director shall attend and participate in, at Area Director's expense, such industry and franchise trade shows, conventions and similar meetings as Franchise designates.

8.14 Purchasing Requirements. As Franchisor may request, Area Director shall purchase from Franchisor or from its designated supplier(s) products and supplies utilized in the operation of HAPPY JOE'S PIZZA Restaurants and make such products and supplies available for purchase by Franchisees. Area Director's purchase price shall be Franchisor's then published prices, and Franchisor shall have the right to collect a shipping and handling fee not to exceed 10% of the total purchase price of any order. Area Director hereby authorizes Franchisor to charge all invoiced amounts to Area Director's credit card account, as described in Section 9.2. Area Director shall have the right to establish the prices at which it sells such products and supplies to Franchisees; provided that Franchisor may establish maximum resale prices to the extent permitted by applicable law.

8.15 Annual Meeting. Area Director shall attend any annual meeting of HAPPY JOE'S franchisees and pay to Franchisor the annual meeting fee to us if all expenses are not covered by vendor, manufacturer, and supplier contributions. Area Director is responsible for all travel, room and board, and other costs of personnel to attend the annual meeting.

8.16 Business Entity Requirements. If Area Director is a Business Entity, the following requirements apply:

8.16.1 The Business Entity shall be newly organized and its formation and governing documents shall at all times provide that its activities are confined exclusively to operating the business contemplated under this Agreement.

8.16.2 Area Director shall promptly furnish to Franchisor copies of the Business Entity's formation and governing document.

8.16.3 Each certificate evidencing an ownership interest in the Business Entity shall have conspicuously endorsed upon its face a statement in a form satisfactory to Franchisor, such as:

The transfer, pledge, or alienation of this security is subject to the terms and restrictions contained within the Area Director Agreement between HAPPY JOE'S FRANCHISING, INC. and [Area Director].

8.16.4 The Business Entity shall maintain a current list of all record owners (voting and nonvoting), and shall furnish the list to Franchisor upon request, together with the addresses and telephone numbers of each owner.

8.16.5 Each Owner shall personally guarantee the performance of Area Director's obligations under this Agreement and shall agree to be personally bound by all of the covenants applicable to the Owners under this Agreement. In connection therewith, each Owner shall sign a Personal Guaranty and Undertaking in the form Franchisor prescribes.

## **9 THE MARKS AND OTHER INTELLECTUAL PROPERTY; PUBLICITY RIGHTS**

9.1 Compliance. Area Director shall strictly comply with the standards, specifications, requirements, and instructions of Franchisor regarding the use of the Marks.

9.2 Ownership. Area Director expressly acknowledges that Franchisor owns all right, title, and interest in and to the Franchisor Marks and the goodwill associated with and symbolized by them. Any and all goodwill arising from Area Director's use of the Franchisor Marks shall inure solely and exclusively to the benefit of Franchisor or its affiliates, and upon expiration or termination of this Agreement, no monetary amount shall be attributable to any goodwill associated with Area Director's use of the Marks.

9.3 Use of the Marks. Area Director shall not take any action that would prejudice or interfere with the rights of Franchisor or its Affiliates in and to the Marks. Nothing in this Agreement shall give Area Director any right, title, or interest in or to any of the Marks, except the right to use them in accordance with the terms and conditions of this Agreement. Without the prior written consent of Franchisor, Area Director shall not use all or any portion of the Marks as part of Area Director's Business Entity or trade name. Area Director shall comply with Franchisor's requirements, and the requirements of any jurisdiction in which Area Director does business, concerning the use and registration of fictitious or assumed names. Area Director shall not use the Marks to incur any obligation or indebtedness on behalf of Franchisor. Any unauthorized use of the Marks shall constitute an infringement of Franchisor's or its Affiliates' rights in the Marks and a material breach or default under this Agreement.

9.4 Substitution of Marks. Franchisor shall have the right to substitute different trade names, trademarks, service marks, logos, and commercial symbols for the current Marks to use in identifying the System and Restaurants operating under the System if the current Marks no longer can be used, or if Franchisor, in its sole discretion, determines that substitution of different marks will benefit the System. In such event, Franchisor may require Area Director, at Area Director's expense, to discontinue or modify its use of any of the Marks or to use one or more additional or substitute Marks.

9.5 Infringement. Area Director shall immediately notify Franchisor of any apparent infringement of or challenge to Area Director's use of any Mark and of any claim by any person of any rights in any Mark. Area Director shall not communicate with any person other than Franchisor, its Affiliates, their counsel, and Area Director's counsel in connection with any such apparent infringement, challenge, or claim. Franchisor or its Affiliate shall have complete discretion to take any action it deems appropriate in connection with any infringement of, or challenge or claim to, any Mark and the exclusive right to control, or to delegate control of, any settlement, litigation, Patent and Trademark Office, or other proceeding arising out of any such alleged infringement, challenge, or claim or otherwise relating to any Mark. Area Director agrees to execute all such instruments and documents, render such assistance, and do such acts or things as may, in the opinion of Franchisor or its Affiliate, reasonably be necessary or advisable to protect and maintain the interests of Franchisor or any Affiliate in the Marks.

9.6 Publicity Rights. Franchisor and its Affiliates are hereby granted the right and license to use the name, likeness, and voice of Area Director and its Owners for purposes of promoting the HAPPY JOE'S PIZZA franchise opportunity and the products and services offered at HAPPY JOE'S PIZZA Restaurants, including in photographs and audio and video recordings. Area Director acknowledges that Franchisor will own all right, title, and interest, to the extent allowed by law, in all rights of publicity associated with such photographs and audio and video recordings, and Area Director hereby assigns and transfers to Franchisor, Franchisor, or their Affiliates full rights and interest to such publicity rights. At Franchisor's request, Area Director shall obtain from any or all of its Owners, officers, and employees written consent, in such form as Franchisor may request.

## **10 CONFIDENTIALITY AND NONCOMPETE COVENANTS**

10.1 Confidentiality. Area Director and the Owners acknowledge that Franchisor and Franchisor possess certain Confidential Information, which may be disclosed to Area Director. Area Director its Owners shall maintain the confidentiality of the Confidential Information and shall refrain from disclosing or divulging the Confidential Information to anyone other than its employees or its professional advisors, on a need-to-know basis. Neither Area Director nor any Owner shall copy or otherwise reproduce any material containing Confidential Information except in connection with the operation of the business contemplated under this Agreement. Area Director shall cause any employee with access to Confidential Information to sign a confidentiality agreement in the form Franchisor prescribes.

10.2 In Term Covenants. During the Term, neither Area Director nor any Owner shall:

10.2.1 Divert any business, customer, or prospective franchisee to any competitor of Franchisor, directly or indirectly, or do or engage in any activity that is likely to injure or prejudice the goodwill associated with the Marks; or

10.2.2 Own, maintain, engage in, be employed by, advise, assist, invest in, franchise, make loans to, or have any interest in a Competitive Business within the United States, its

commonwealths and territories, or any jurisdiction in which Franchisor or its Affiliates have used the Marks, licensed use of the Marks, or registered or applied for registration of the Marks.

10.3 Post Term Covenants. For a two-year period following termination or expiration of this Agreement, neither Area Director nor any Owner shall:

10.3.1 Divert any business, customer, or prospective Franchisee to any competitor of Franchisor, directly or indirectly, or do or engage in any activity that is likely to injure or prejudice the goodwill associated with the Marks; or

10.3.2 Own, maintain, engage in, be employed by, advise, assist, invest in, franchise, make loans to, or have any interest in a Competitive business located within the Territory or within 10 miles of any HAPPY JOE'S PIZZA Restaurant.

The two-year restrictive period shall be tolled during any period of noncompliance.

10.4 Owner Covenants. For a two-year period after any Owner ceases to satisfy the definition of a "Owner" under this Agreement, such Owner shall not:

10.4.1 Divert any business, customer, or prospective Franchisee to any competitor of Franchisor, directly or indirectly, or do or engage in any activity that is likely to injure or prejudice the goodwill associated with the Marks; or

10.4.2 Own, maintain, engage in, be employed by, advise, assist, invest in, franchise, make loans to, or have any interest in any Competitive Business within the Territory or within 10 miles of any HAPPY JOE'S PIZZA Restaurant.

The two-year restrictive period shall be tolled during any period of noncompliance.

10.5 Reasonableness. The parties acknowledge that the restrictions contained in this Article 10 are fair and reasonably necessary to protect HAPPY JOE'S PIZZA Restaurant franchisees and the HAPPY JOE'S PIZZA System, generally, from unfair competition. Area Director acknowledges and represents that the restrictions contained in this Article 10 will not impose any undue hardship on Area Director or any Owner, and that each such person has other considerable skills, experience, and education which afford him or her the opportunity to make a living.

10.6 Reformation. If any of the foregoing covenants or any material portion of the foregoing covenants is held to be unreasonable or unenforceable by a court of agency having valid jurisdiction, Area Director, and each Owner authorize and instruct such court or agency to reform the foregoing covenants to the extent necessary for them to be determined reasonable or enforceable. Area Director and each such Owner agrees to be bound by such reformed covenant as if the resulting covenant were separately stated in and made a part of this Agreement.

10.7 Franchisor's Right to Reduce the Scope. The parties acknowledge and agree that Franchisor shall have the right, in its sole discretion, to reduce the scope of the covenants set forth in Sections 10.2., 10.3., and 10.4, above, without the consent of Area Director or any Owner bound by the restrictions contained in this Article 10. Such reduction shall become effectively immediately upon delivery to Area Director of written notice of the reduction, and Area Director and each such Owner agrees to be bound by such modified covenant as if the resulting covenant were separately stated in and made a part of this Agreement.

10.8 Claims not a Defense. Area Director and each Owner bound by the restrictions contained in this Article 10 acknowledge and agree that Franchisor has the right to enforce the provisions of Article 10 notwithstanding any claims that Area Director or any such Owner may have or allege to have against Franchisor.

10.9 Owners and Owner Spouses. Area Director shall cause each Owner and each Owner's spouse, promptly upon such person meeting the definition of Owner under this Agreement, to sign an agreement in substantially the form attached as Exhibit B, pursuant to which each Owner and his or her spouse agree, among other things, to be bound by the terms of this Article 10.

10.10 Employees. Area Director shall obtain from each officer and employee, promptly upon hiring, and shall deliver to Franchisor a signed agreement in substantially the form attached as Exhibit C, pursuant to which each officer and employee agrees to be bound by the terms of this Article 10.

10.11 Irreparable Harm. Area Director and each Owner acknowledge that any violation of the foregoing covenants would result in immediate and irreparable harm to Franchisor and/or Franchisor for which no adequate remedy at law would be available. Accordingly, Area Director and each Owner consent to the entry of an injunction prohibiting any conduct in violation of the terms of this Article 10. If legal action becomes necessary to enforce compliance with any of the foregoing covenants, Area Director shall pay all costs and expenses (including reasonable attorneys' and experts' fees) incurred by Franchisor and/or Franchisor in connection with initiating and maintaining such enforcement action.

10.12 Survival. The provisions of this Article 10 shall survive expiration or termination of this Agreement.

## **11 ADVERTISING**

11.1 General Requirements. All advertising and promotional materials used in connection with marketing the HAPPY JOE'S PIZZA franchise opportunity shall be presented in a dignified manner and shall conform to Franchisor's standards and specifications, as amended from time to time.

11.2 Approval of Advertising and Marketing Materials. Area Director shall not use any advertising or promotional materials not previously approved by Franchisor. Area Director shall submit to Franchisor copies of all proposed advertising and marketing materials, and may not use such materials until approved by Franchisor. Franchisor will use best efforts to communicate its approval or refusal to approve the proposed advertising within 10 business days after its receipt. Franchisor has the right to disapprove the use of any advertising or promotional materials which Franchisor deems no longer reflects desired content or the image intended for the Franchisor System. Area Director shall promptly cease the use of any advertising or promotional materials upon receiving notice of Franchisor' disapproval.

11.3 Franchisor's Right to Advertise in the Territory; Sharing of Costs. The parties acknowledge and agree that, from time to time, Franchisor and/or Franchisor may conduct marketing activities or place advertising for the purpose of soliciting new franchisees for the development of HAPPY JOE'S PIZZA Restaurants in and outside the Territory. At Franchisor's request, Area Director shall pay its proportionate share of the cost (as calculated by Franchisor) of any such marketing activities and advertising.

## **12 FINANCIAL REPORTING; INSPECTIONS; AUDITS**

12.1 Books and Records; Reporting Requirements. Area Director shall submit to Franchisor such financial information, statements, and reports that Franchisor may require, from time to time, in the format that Franchisor may require. Franchisor may require that any such financial statements be compiled or reviewed, at Area Director's expense. Area Director shall maintain its books and records in accordance with standard accounting procedures. Area Director shall maintain such books and records as are required by law and such books and records as Franchisor may require. All books and records maintained by Area Director relating to the conduct of its business shall be retained by Area Director during the term of this Agreement and for the seven-year period following the expiration or termination of this Agreement. Franchisor shall have the right to disclose to any person (including any lender to, or lessor of, Area Director), or use for any purpose, any financial or other information regarding Area Director in Franchisor's possession.

12.2 Franchisor's Right to Audit. Franchisor may audit, or cause its agents or representatives to audit, Area Director's books and records with respect to its operations pursuant to this Agreement. Area Director shall provide Franchisor and its representatives and agents access to such books and records, and shall cooperate with the conduct of any audit. Franchisor will pay all costs and expenses in connection with any audit unless the audit reveals that Area Director has breached any of its obligations under this Agreement, or any other agreement between Franchisor and Area Director, in which case Area Director shall promptly pay, or reimburse Franchisor for, all costs and expenses in connection with the audit (including reasonable attorneys' fees, accountants' fees, and costs). Such remedies shall be in addition to and not in lieu of other remedies that may be available at law or in equity.

## 13 ASSIGNMENT

13.1 Assignment by Franchisor. Franchisor shall have the right to transfer or assign this Agreement and all or any part of its rights or obligations herein to any person or legal entity without Area Director's consent, and upon such transfer or assignment, the transferee or assignee shall be solely responsible for all of Franchisor's obligations arising hereunder subsequent to the transfer or assignment.

13.2 Assignment by Franchisee. Area Director shall not effect a "Transfer" without Franchisor's prior written consent. For purposes of this Agreement, a Transfer requiring Franchisor's prior written consent shall include: (a) the assignment or transfer of Area Director's interest in or rights under this Agreement; or (b) any Owner's transfer of any ownership interest in Area Director. Franchisor may grant or withhold its consent to a proposed Transfer in its sole discretion. Franchisor may condition its consent to a Transfer on any or all of the following:

13.2.1 The transferee shall meet Franchisor's then-qualifications for new area directors which may include, without limitation, prior experience managing or operating a HAPPY JOE'S PIZZA Restaurant;

13.2.2 The transferring party shall have delivered to Franchisor written notice of the proposed transfer no less than 60 days prior to the anticipated closing date;

13.2.3 Area Director shall pay a Transfer fee equal to the greater of: (a) 10% of the gross sales price or other consideration to be received or realized by Area Director or the transferring Owner in connection with the Transfer; or (b) \$15,000, payable in cash or by certified or cashier's check; and/or

13.2.4 The transferor and its principals (if applicable) shall have executed a general release, in a form satisfactory to Franchisor, of any and all claims, against Franchisor and its Affiliates, and the officers, directors, shareholders, partners, members, agents, representatives, independent contractors, servants, and employees of each of them, in their corporate and individual capacities, including, without limitation, claims or damages relating to or arising out of this Agreement, any Development Agreement or Franchise Agreement between Area Director and Franchisor and any other agreement between Area Director and Franchisor or any of its Affiliates or under federal, state, or local laws, rules, regulations, and orders.

## 14 INSURANCE AND INDEMNIFICATION

14.1 Obligation to Maintain Insurance. At all times during the term of this Agreement, Area Director shall maintain in full force effect insurance coverage of the type and with minimum limits that Franchisor specifies from time to time, in its sole discretion. Such required coverages shall include, without limitation, generally liability insurance and errors and omissions coverage. Franchisor shall have the right to require Area Director to purchase all required insurance policies including, without limitation, errors and omission insurance policies, from designated or approved insurance carriers, agents or brokers, and if required, Area Director shall obtain and maintain the required policies from such designated or approved carriers, agents or brokers. Each policy of insurance shall name as an additional named insured Franchisor, Franchisor, and their respective officers, directors, agents, and employees and, to the extent permitted by law, shall contain a waiver of subrogation in favor of Franchisor, Franchisor, and their respective officers, directors, agents, and employees. Area Director shall deliver to Franchisor a copy of each certificate of insurance within 10 days after the policy is issued and within 10 days after the date each policy is renewed. If Area Director fails to obtain and maintain required insurance coverages, or fails to pay any premium as and when due, Franchisor has the right (but is not obligated) to procure such insurance or pay such premium on Area Director's behalf and to impose an administrative fee in an amount not to exceed 10% of the premium paid. In such event and upon demand by Franchisor, Area Director shall reimburse Franchisor the cost of such premium(s) and shall pay the administrative fee.

14.2 Franchisor's Right to Maintain Insurance on Area Director's Behalf. The following provisions shall apply to the extent and so as long as Franchisor or its Affiliate elect to maintain insurance on Area Director's behalf:

14.2.1 Franchisor shall have the right, in its sole discretion, to purchase Errors & Omissions Insurance (“**E&O Insurance**”) on behalf of the Area Director. In the event Franchisor purchases such E&O Insurance, Area Director shall reimburse Franchisor the full amount of the policy on January 1 of each year this Agreement is in force, up to a maximum reimbursement of \$10,000 per calendar year.

14.2.2 Area Director acknowledges and agrees that Franchisor’ minimum insurance requirements and procurement of minimum insurance on Area Director’s behalf does not constitute a representation or assurance that such insurance provides adequate protection against the potential risks associated with the business contemplated under this Agreement. Area Director is encouraged to consult with a professional insurance advisor of its choice to determine whether additional insurance coverage may be advisable.

14.2.3 Nothing in this provision shall require Franchisor or its affiliates to procure or maintain insurance on Area Director’s behalf. If and to the extent Franchisor or its affiliates elect not to procure or maintain insurance on Area Director’s behalf, Area Director shall procure and maintain insurance, from a carrier of its choice, meeting Franchisor’s minimum insurance requirements.

14.3 Indemnification. Area Director shall, at all times, defend, indemnify and hold harmless to the fullest extent permitted by law Franchisor, its affiliates, successors and assigns, and the officers, directors, shareholders, partners, members, agents, representative, independent contractors, servants, and employees of each of them (“**Indemnities**”) from all Losses and Expenses (defined below) incurred in connection with any action, suit, proceeding, claim, demand, investigation or inquiry (formal or informal), or any settlement thereof (whether or not a formal proceeding or action has been instituted) resulting from Area Director’s breach of this Agreement, Area Director’s actions or omissions or the conduct of Area Director’s business under this Agreement, including Area Director’s failure to comply with the provisions of Articles 8 or 9, or the violation of any federal or state law.

14.4 Notice of Claims. Area Director shall give Franchisor immediate notice of any proceeding, demand, investigation, or other judicial or administrative action asserted against or involving Area Director, Franchisor. At the expense and risk of Area Director, Franchisor and/or Franchisor may elect (but is not obligated) to assume the defense of such proceeding, demand, investigation or action or associate counsel of its own choosing. Such an undertaking by Franchisor shall not diminish the obligation of Area Director to indemnify the Indemnitees and to hold them harmless as provided in this Article 14.

14.5 Defense Costs. Franchisor and Area Director each shall be responsible for its own defense and payment of its own attorneys’ fees, subject to the indemnification obligations set forth in this Article 14.

14.6 Right to Settle. In order to protect persons or property or its reputation or goodwill, or the reputation or goodwill of others, Franchisor may, at any time and without notice, as it, in its judgment deems appropriate, consent or agree to settlements or take such other remedial or corrective action as it deems expedient with respect to the action, suit, proceeding, claim, demand, inquiry, or investigation if, in Franchisor’ sole judgment, there are reasonable grounds to believe that: **(a)** any of the acts or circumstances enumerated in Section 14.2, above, has occurred; or **(b)** any act, error, or omission as described in Section 14.2 may result directly or indirectly in damage, injury, or harm to any person or any property.

14.7 Definitions. As used in this Article 14, the phrase “**Losses and Expenses**” shall include, without limitation, all losses, compensatory, exemplary, or punitive damages, fines, charges, costs, expenses, lost profits, reasonable attorneys’ fees and costs, court costs, settlement amounts, judgments, compensation for damages to the Franchisor’s reputation and goodwill, costs of or resulting from delays, financing costs, costs of advertising materials and media time/space and costs of changing, substituting or replacing the same, any and all expenses of refunds, compensation, and public notices and all other payments of money incurred in connection with the matters described.

## 15 **DEFAULT, TERMINATION, AND ALTERNATIVE REMEDIES**

15.1 Automatic Termination. This Agreement will terminate automatically upon the filing of any voluntary bankruptcy proceeding by Area Director, or any involuntary bankruptcy proceeding against Area

Director; upon initiation of a receivership proceeding involving Area Director or the assets of its business; if Area Director makes a general assignment for the benefit of creditors; if a final judgment is entered against Area Director and is not vacated or otherwise discharged within 60 days (unless it is appealed and a supersedeas bond is filed); if Area Director is dissolved or ceases to exist; or if Area Director becomes insolvent. For purposes of this provision, "insolvent" means a present inability to pay its debts as and when they become due.

15.2 Termination by Delivery of Written Notice. Franchisor may terminate this Agreement, by delivering written notice of termination to Area Director, upon the occurrence of any material breach of this Agreement. The following constitutes an illustrative (but not exhaustive) list of events that constitute a material breach of this Agreement:

15.2.1 If Area Director fails to meet any of its annual development objectives under the Development Schedule;

15.2.2 If Area Director or any Owner is convicted of a felony, any crime involving moral turpitude, or any other crime that is likely to materially adversely affect the goodwill symbolized by the Franchisor Marks.

15.2.3 If Area Director or any Owner is found liable in any civil action, by final judgment or arbitration award, of claims involving fraud or misrepresentation.

15.2.4 If Area Director conducts his or her business in a manner that may adversely affect the goodwill or reputation of Franchisor, its products or the Marks; provided, however, that if that damage is curable (in Franchisor' sole discretion), Area Director will have 30 days within which to cure such default. Termination will be effective immediately upon notice, unless the default is curable (in Franchisor' sole discretion), in which event, termination will be effective upon the 30th day after that notice unless the default is cured.

15.2.5 If any of the representations made by Area Developer in this Agreement are untrue in any material respect or if they omit any material fact necessary to make such representation not misleading in light of the circumstances in which it was made;

15.2.6 If Area Director ceases to operate the Pilot Restaurant as required by this Agreement.

15.2.7 If Area Director fails or refuses to attend and/or participate in any trade show, convention or other meeting pursuant to Section 9.17. In lieu of termination, at Franchisor' sole option, Franchisor may send its own representative or its designee to such conference or convention, at Area Director's expense, and may charge all related expenses (including tuition, airfare, lodging and dining accommodations) to the credit card account described in Section 9.2.

15.2.8 If Area Director solicits or accepts any rebate, discount, or other remuneration from any vendor, supplier, or other person in violation of this Agreement.

15.2.9 If Area Director solicits or accepts any payment from Franchisees or prospective Franchisees in violation of Section 9.6.

15.2.10 If Area Director breaches or fails to comply with any other provision of this Agreement and fails to correct such deficiency within 10 days after delivery to Area Director of written notice;

15.2.11 Upon termination by Franchisor of any Franchise Agreement between Franchisor and Area Director or Area Director's Affiliates;

15.2.12 If Area Director suspends its business without the prior written consent of Franchisor for a period in excess of 14 calendar days; or

15.2.13 If Area Director shall, in violation of the provisions of this Agreement, assign, convey, transfer, sublicense or encumber all or any portion of Area Director's rights, benefits, responsibilities, obligations or duties under this Agreement.

15.3 Franchisor and Area Director acknowledge that, in addition to the Federal Trade Commission laws and guidelines concerning franchising, there may be laws and regulations governing the sale of franchises and/or business opportunities in the state or states wherein Franchisor maintains its principal offices and/or the states in which the Territory is located. If, during the Term, the U.S. government or any state government enacts additional laws or regulation(s) that would adversely affect the profitability of Franchisor in selling or operating franchised Restaurants, then Franchisor has the right, at its option, to terminate Area Director's rights to develop additional Restaurants in the affected jurisdiction. Upon exercise of such option, Area Director shall have no further right to solicit the sale of Franchises in such jurisdictions, but shall have the right and continued obligation to provide the operational support relating to Franchisees operating such jurisdictions, as described in this Agreement.

15.4 Notwithstanding anything contained in this Agreement to the contrary, if Franchisor reasonably believes that Area Director is failing to perform any of its obligations under this Agreement, Franchisor may perform any or all of Area Director's obligations under this Agreement. Area Director shall promptly pay, or reimburse Franchisor for, any and all costs and expenses incurred by Franchisor in connection therewith, including a per diem charge, at Franchisor's then-current rates, for the time spent by Franchisor's representatives in connection with their travel and performance.

15.5 Notwithstanding anything contained in this Agreement to the contrary, at any time that Area Director is in breach of its obligations under this Agreement, Franchisor may elect to defer the performance of Franchisor's obligations under this Agreement until Area Director's breach has been cured. Franchisor's exercise of such right shall not constitute a waiver of its rights under this Agreement, including its right to terminate this Agreement. In addition, Franchisor's exercise of such right shall not serve as a basis for any claim by Area Director that Franchisor did not perform its obligations in a timely manner.

## **16 PURCHASE OPTION**

16.1 At any time during the term of this Agreement, Franchisor shall have the option to purchase all of the rights and interest held by Area Director under this Agreement, as provided in this Article 16.

16.2 The purchase price shall be calculated as the average monthly Services Commission paid to Area Director during the trailing 12-month period multiplied by the number of months remaining in the current term.

16.3 Franchisor may exercise such option by delivering written notice of its election ("Exercise Notice"). Closing on the purchase shall occur within 60 days after delivery of the Exercise Notice.

16.4 Franchisor may pay the purchase price in cash or deliver to Area Director a negotiable promissory note for the balance of the purchase price. Any promissory note given in payment of the purchase price shall be paid in equal consecutive monthly installments over a period not to exceed two years. Interest on the note shall be payable annually and shall accrue at the rate of five percent per annum.

## **17 POST TERM RIGHTS AND OBLIGATIONS**

17.1 Post Term Rights. If this Agreement expires by its terms and is not renewed, and if Area Director continues to provide the franchise support services described in this Agreement, Area Director shall be entitled to receive the Services Commissions with respect to existing Franchisees through the end of each Franchise Agreement existing as of the date of expiration. If Franchisor terminates this Agreement for cause before its natural expiration, Area Director shall not be entitled to receive any Services Commissions accruing after the date of termination.

17.2 Post Term Obligations. Upon termination or expiration of this Agreement, Area Director shall:

17.2.1 Immediately and permanently cease to use, in any manner whatsoever, any Confidential Information.

17.2.2 Return to Franchisor all materials reflecting the Franchisor Marks and/or containing Confidential Information.

17.2.3 Discontinue all use of the Marks, including the use of any signage or other materials reflecting the Marks,

17.2.4 Cancel any assumed name registration containing any part of the Marks;

17.2.5 Pay all sums owing to Franchisor and its Affiliates, and all damages, costs and expenses, including reasonable attorney's fees and costs, incurred by Franchisor as a result of any default by Area Director or in connection with obtaining injunctive or other relief for enforcement of any provisions of this Article 17, which obligation shall give rise to and remain a lien in favor of Franchisor against any and all assets of Area Director, until such obligations are paid in full;

17.2.6 At Franchisor's option, assign to Franchisor all of Area Director's rights to the telephone and facsimile numbers, domain names, URLs, and e-mail addresses used in connection with the business contemplated hereunder and any print and online business listings and execute all forms and documents required by Franchisor and any telephone company or directory provider necessary to effect such assignment(s).

17.3 Directories and Advertising. Within 10 days after termination or expiration of this Agreement, Area Director shall notify all online directory services and other advertising providers that Area Director is no longer acting on behalf of Franchisor, and Area Director shall cooperate with Franchisor in its efforts to substitute in such advertising replacement contact information for franchise sales.

17.4 Irreparable Harm. Area Director acknowledges that Area Director's failure to abide by the provisions of this Article 17 will result in irreparable harm to Franchisor, and that Franchisor's remedy at law for damages will be inadequate. Accordingly, Area Director agrees that upon any breach by Area Director of the provisions of this Article 17, Franchisor shall be entitled to injunctive relief or specific performance in addition to any other remedies available at law or in equity.

## **18 INDEPENDENT CONTRACTOR**

18.1 Independent Contractor. The parties acknowledge and agree that the relationship created by this Agreement is not a franchise, a subfranchise, or an area franchise relationship (as defined by federal or state law). This Agreement does not create a fiduciary, special, or any other similar relationship between the parties; between the parties, there is only an arm's length business relationship. Area Director shall be an independent contractor, and nothing in this Agreement is intended to constitute either party an agent, legal representative, subsidiary, joint venturer, partner, employee, joint employer, or servant of the other for any purpose.

18.2 No Agency. Nothing in this Agreement authorizes Area Director to make any contract, agreement, warranty or representation on Franchisor's behalf, or to incur any debt or other obligation in Franchisor's name, and Franchisor shall in no event assume liability for, or be deemed liable under this Agreement as a result of, any such action, or for any act or omission of Area Director or any claim or judgment arising therefrom.

## **19 NOTICES**

19.1 Notices. All notices required or permitted under this Agreement shall be in writing and shall be personally delivered or mailed by expedite delivery service or certified or registered mail, return receipt requested, first-class postage prepaid, or sent by facsimile or electronic mail to the respective parties at the addresses appearing on the Summary Pages unless and until a different address has been designated by written notice to the other party. Any notice shall be deemed to have been given at the time of personal delivery or, in the case of expedited delivery service, on the next business day, or, in the case of registered or certified mail, upon receipt, or, in the case of first-class postage prepaid mail, three business days after the date and time of mailing, or, in the case of facsimile or electronic mail, upon transmission (provided confirmation is sent by expedited delivery service or registered or certified mail).

## **20 CONSTRUCTION**

20.1 Terms and Captions. Capitalized terms, unless otherwise defined in the body to this Agreement, shall have the meanings ascribed to them in the Glossary of Additional Terms, attached hereto as Exhibit A. All references to the masculine, neuter or singular shall be construed to include the masculine, feminine, neuter or plural, where applicable. The captions used in connection with the articles and sections of this Agreement are inserted only for purpose of reference. Such captions shall not be deemed to govern,

limit, modify, or in any other manner affect the scope, meaning or intent of the provisions of this Agreement or any part thereof nor shall such captions otherwise be given any legal effect.

20.2 Complete Agreement; Amendment. This Agreement constitutes the entire, full and complete agreement between Franchisor and Area Director concerning the subject matter hereof and shall supersede all prior related agreements. Except for those permitted to be made unilaterally by Franchisor hereunder, no amendment, change or variance from this Agreement shall be binding on either party unless mutually agreed to by the parties and executed by their authorized officers or agents in writing.

20.3 Effect of Delay, Waiver, Omission, or Forbearance. No delay, waiver, omission, or forbearance on the part of Franchisor to exercise any right, option, duty or power arising out of any breach or default by Area Director under this Agreement shall constitute a waiver by Franchisor to enforce any such right, option, duty or power against Area Director, or as to a subsequent breach or default by Area Director.

20.4 Severability. Except as expressly provided to the contrary herein, each article, section, part and provision of this Agreement shall be considered severable; and if, for any reason, any article, section, part or provision is determined to be invalid and contrary to, or in conflict with, any existing or future law or regulation by a court or agency having valid jurisdiction, this shall not impair the operation of, or have any other effect upon, the other articles, sections, parts, or provisions of this Agreement that may remain otherwise intelligible, and the latter shall continue to be given full force and effect and bind the parties; the invalid portions, sections, parts, terms or provisions shall be deemed not to be part of this Agreement; and there shall be automatically added such portion, section, part, term or provision as similar as possible to that which was served which shall be valid and not contrary to or in conflict with any law or regulation.

20.5 Rights and Remedies Cumulative. All rights and remedies of the parties to this Agreement shall be cumulative and not alternative, in addition to and not exclusive of any other rights or remedies which are provided for herein or which may be available at law or in equity in case of any breach, failure or default or threatened breach, failure or default of any term, provision or condition of this Agreement or any other agreement between Area Director and Franchisor its affiliates. The rights and remedies of the parties to this Agreement shall be continuing and shall not be exhausted by any one or more uses thereof and may be exercised at any time or from time to time as often as may be expedient; and any option or election to enforce any such right or remedy may be exercised or taken at any time and from time to time. Termination or expiration of this Agreement shall not discharge or release Area Director from any liability or obligation then accrued, or any liability or obligation continuing beyond, or arising out of, the expiration, the earlier termination or the exercise of such rights under this Agreement. Area Director shall pay all costs of court and reasonable attorneys' fees and costs incurred by Franchisor in obtaining any remedy available to Franchisor for any violation of this Agreement.

20.6 Time of the Essence. Time is of the essence as to performance of all obligations under this Agreement.

20.7 Counterparts. This Agreement may be executed in multiple counterparts, each of which when so executed shall be an original, and all of which shall constitute one and the same instrument.

20.8 Further Assistance. The parties will promptly execute and deliver such further documents and take such further action as may be necessary in order to effectively carry out the intent and purposes of this Agreement.

## **21 APPLICABLE LAW; DISPUTE RESOLUTION**

21.1 Choice of Law. This Agreement and all claims arising out of or related to this Agreement or the parties' relationship created hereby shall be construed under and governed by the laws of the State of Texas (without giving effect to any conflict of laws).

21.2 Venue. Any action brought by either party against the other in any court, whether federal or state, shall be brought and maintained exclusively in the state or federal court serving the judicial district in which Franchisor maintains its principal place of business at the time the action is initiated, and the parties hereby waive all questions of personal jurisdiction or venue for the purpose of carrying out this provision.

21.3 Non-exclusivity of Remedy. No right or remedy conferred upon or reserved to either party by this Agreement is intended to be, nor shall be deemed, exclusive of any other right or remedy in this Agreement or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy.

21.4 WAIVER OF JURY TRIAL. EACH PARTY IRREVOCABLY WAIVES ITS RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER OF THEM AGAINST THE OTHER, WHETHER OR NOT THERE ARE OTHER PARTIES IN SUCH ACTION OR PROCEEDING.

21.5 WAIVER OF PUNITIVE DAMAGES. THE PARTIES HEREBY WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO OR CLAIM OF ANY PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER AND AGREE THAT IN THE EVENT OF A DISPUTE BETWEEN THEM EACH SHALL BE LIMITED TO THE RECOVERY OF ANY ACTUAL DAMAGES SUSTAINED BY IT.

21.6 Right to Injunctive Relief. Nothing in this Agreement shall bar Franchisor's right to seek injunctive relief from any court of competent jurisdiction; and Area Director agrees to pay all costs and reasonable attorneys' fees incurred by Franchisor in obtaining such relief.

21.7 Contractual Limitations Period. No legal action or proceeding may be brought against Franchisor or its officers, directors, agents, or employees, for any claim or cause of action (whether sounding in contract, tort, or otherwise) unless such action or proceeding is instituted within two years and one day from the date the claim or cause of action accrued. This provision is intended to shorten any applicable statute of limitations to the extent permitted by law.

21.8 Attorneys' Fees. If either party commences a legal action against the other party arising out of or in connection with this Agreement, the prevailing party shall be entitled to have and recover from the other party its reasonable attorneys' fees and costs of suit.

## 22 REPRESENTATIONS BY AREA DIRECTOR

22.1 If Area Director is a Business Entity, Area Director represents to Franchisor that the Business Entity is in good standing in the jurisdiction in which it was formed and is authorized to do business in each jurisdiction in which it will operate pursuant to this Agreement. Area Director further represents that Area Director has the legal right to enter into this Agreement.

22.2 Area Director further represents to Franchisor that it has conducted an independent investigation of all aspects relating to the business contemplated under this Agreement. Area Director recognizes that the business involves business risks and that its success will largely dependent on Area Director's skills and ability as an independent business person or organization.

22.3 Area Director acknowledges that it has received, read and understands this Agreement and that Area Director has had ample opportunity to consult with an attorney of Area Director's choice concerning the potential benefits and risks of entering into this Agreement.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands as of the day and year first above written.

**HAPPY JOE'S FRANCHISING, INC.**  
an Iowa corporation

Dated: \_\_\_\_\_

By: \_\_\_\_\_,  
\_\_\_\_\_, President

**AREA DIRECTOR:**

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

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

**HAPPY JOE'S FRANCHISING, INC.**  
**ADDENDUM TO THE AREA DIRECTOR AGREEMENT**  
**FOR THE STATE OF MINNESOTA**

This Addendum is to an Area Director Agreement dated, 20\_\_ between Happy Joe's Franchising, Inc. (Franchisor) and \_\_\_\_\_ (Area Director) to amend said Agreement as follows:

The Area Director Agreement is amended to include the following provisions:

Minnesota law provides franchisees with certain termination and non-renewal rights. Minn. Stat. Sec. 80C.14, Subd. 3, 4 and 5 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. These provisions of Minnesota law are hereby incorporated by reference in this Agreement.

The execution of a general release upon renewal shall be inapplicable to franchises operating in Minnesota.

In the event Franchisee's right to the use of any name, mark or commercial symbol licensed hereunder is the subject of any claim, suit or demand (a "threat"), Franchisor shall either defend Franchisee against the threat or indemnify Franchisee from any loss, costs or expenses arising therefrom, provided and on condition, Franchisee:

- A. delivers to Franchisor prompt written notice of the threat;
- B. grants Franchisor written authorization to take unrestricted control over the defense and settlement of the threat with counsel of its choice;
- C. did not cause or give rise to the threat due to a material failure to comply with Franchisor's previously communicated trademark usage requirements;
- D. cooperates promptly and fully with Franchisor in the defense, mitigation, and/or settlement of the threat; and
- E. does not jeopardize or compromise any right, defense, obligation or liability of Franchisor, by making any statement to, or entering into any agreement with, the threatening party which does not have the advance written consent of Franchisor, unless required by applicable law."

Minn. Stat. Sec. 80C.21 and Minn. Rule Part 2860.4400J prohibit us from requiring litigation to be conducted outside of 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.

Minn. Stat. Sec. 80C.21 and Minn. Rule Part 2860.4400J prohibit a franchisor from requiring the franchisee to consent to liquidated damages.

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 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.

The franchisee cannot be required to consent to the franchisor obtaining injunctive relief. The franchisor may seek injunctive relief. See Minn. Rules 2860.4400(J). Also, a court will determine if a bond is required.

The Limitations of Claims section (Section 21.7.) must comply with Minnesota Stat. § 80C.17, subd. 5

Minnesota Rules 2860.4400(G) prohibits a franchisor from imposing on a franchisee by contract or rule, whether written or oral, any standard of conduct that is unreasonable.

~~Section I.C. of the Franchise Agreement is amended to reflect that payment of the initial franchise fee will be deferred until the Franchisee has commenced doing business.~~

**In witness whereof**, each of the undersigned hereby acknowledges having read this Addendum, understands and consents to be bound by all of its terms, and agrees it shall become effective the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

HAPPY JOE'S FRANCHISING, INC.:

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

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

AREA DIRECTOR:

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

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

## EXHIBIT A

### GLOSSARY OF ADDITIONAL TERMS

The following terms have the following meanings in this Agreement:

**"Affiliate"** means an entity that is controls, is controlled by, or is under common control with another entity.

**"Business Entity"** means any person with the power to enter into contracts, other than a natural person. The term includes a corporation, limited liability company, limited partnership, and trust.

**"Competitive Business"** means any business that offers or provides (or grants franchises or licenses to others to operate a business that offers or provides) homemade ice cream or dessert items of the type offered by HAPPY JOE'S PIZZA Restaurants at the time of expiration or termination.

**"Company-Owned Restaurant"** means a HAPPY JOE'S PIZZA Restaurant owned or operated by Franchisor or a Franchisor Affiliate.

**"Confidential Information"** means all confidential information, trade secrets, knowledge and know how concerning the Franchisor System including, without limitation, its business and marketing plans, growth strategies, supplier arrangements, distribution arrangements, training materials, and information concerning the financial performance of HAPPY JOE'S PIZZA Restaurants and, except as stated below, any other information Franchisor labels as "Confidential." Confidential Information does not include **(a)** any information that becomes generally known to the public through no fault of Area Director, **(b)** any information disclosed to Area Director by a third party having legitimate and unrestricted possession prior to the Franchisor having disclosed such information to Area Director, or **(c)** any information that Area Director can demonstrate was within its legitimate and unrestricted possession prior to the date Franchisor began discussing with Area Director the Area Director opportunity.

**"Development Schedule"** means the schedule set forth in the Summary Pages.

**"Development Period"** means the time periods during which Area Director's performance in meeting the Development Schedule is measured. The first Development Period begins on the Effective Date and ends on the first anniversary of the Effective Date. The second and each additional Development Period begins and ends on the anniversary of the Effective Date.

**"Franchise Agreement"** means the form of Franchise Agreement used by Franchisor from time to time (including all related exhibits, riders, addenda, amendments and guarantees), in granting Franchises.

**"Franchised Restaurant"** a HAPPY JOE'S PIZZA Restaurant: **(a)** in the Territory, **(b)** by anyone other than Franchisor or a Franchisor Affiliate or Area Director or an Area Director Affiliate, **(c)** pursuant to a valid Franchise Agreement with Franchisor, which has not been excluded from the scope of this Agreement.

**"Franchisee"** means an individual or entity that operates a HAPPY JOE'S PIZZA Restaurant in the Territory pursuant to a valid franchise agreement with Franchisor.

**"Franchise Sale"** means the execution of a Franchise Agreement by Franchisor and a Franchisee for the establishment and operation of a new HAPPY JOE'S PIZZA Restaurant in the Territory. **"Franchise Sale"** does not include execution of a Franchise Agreement in connection with the sale or transfer of an existing HAPPY JOE'S PIZZA Restaurant, and does not include the execution of a Franchise Agreement prior to the Effective Date of this Agreement.

**"Initial Franchise Fee"** means the initial fee a Franchisee pays for the right to establish a Restaurant.

**"Manual"** currently means and includes Franchisor's Food and Beverage Manual, Accounting Manual, Certified Pizza Artist Training Manual, Certified Service Artist Training Manual, and Certified Delivery Driver Manual, and such other operations and procedures manuals as may exist from time to time.

**"Marks"** means the trade name and service mark "HAPPY JOE'S PIZZA" and other trademarks and serve marks that Franchisor has designated or may in the future designate to identify businesses operating under the System.

**"Owner"** means and includes each person holding an equity interest in a Business Entity, and each individual holding an equity interest in any Owner which is a Business Entity.

**“Pilot Restaurant”** means a HAPPY JOE’S PIZZA Restaurant owned and operated by Area Director or its Affiliate in the Territory.

**“Renewal Fee”** shall have the meaning ascribed to it in the individual Franchisee’s Franchise Agreement.

**“Royalty Fee”** shall have the meaning ascribed to it in the individual Franchisee’s Franchise Agreement.

**“Sales Commission”** means the commission payable to Area Director, in the amount set forth in the Summary Pages.

**“Services Commission”** means the commission payable to Area Director, in the amount set forth in the Summary Pages.

**“HAPPY JOE’S PIZZA Restaurant”** or **“Restaurant”** means a Restaurant offering homemade ice cream or dessert items under the Marks.

**“Territory”** means the geographic area described in the Summary Pages.

## EXHIBIT B

### PERSONAL GUARANTY AND UNDERTAKING

This Personal Guaranty and Undertaking ("**Guaranty**") is given this \_\_\_ day of \_\_\_\_\_, 2023, by the undersigned.

In consideration of, and as an inducement to, the execution of the amended and restated Area Director Agreement ("**Agreement**") by HAPPY JOE'S FRANCHISING, INC. ("**Franchisor**"), each of the undersigned and any other parties who sign counterparts of this Guaranty (individually, "**Guarantor**" and collectively, "**Guarantors**") hereby personally and unconditionally guarantees to Franchisor and its successors and assigns, that he or she will punctually pay the Area Director's obligations for Area Director Fees, Development Fees, Territory Fees and other amounts due under the Agreement.

Each Guarantor waives:

- (a) acceptance and notice of acceptance by Franchisor of the foregoing undertakings; and
- (b) notice of demand for payment of any indebtedness or nonperformance of any obligations hereby guaranteed; and
- (c) protest and notice of default to any party with respect to the indebtedness or nonperformance of any obligations hereby guaranteed; and
- (d) any right he or she may have to require that an action be brought against Franchisee or any other person as a condition of liability; and
- (e) all rights to payments and claims for reimbursement or subrogation which he or she may have against Area Director arising as a result of his or her execution of and performance under this guaranty by the undersigned (including by way of counterparts); and
- (f) any and all other notices and legal or equitable defenses to which he or she may be entitled.

Each Guarantor consents and agrees that:

- (a) his or her direct and immediate liability under this Guaranty will be joint and several not only with Area Director, but also among the Guarantors; and
- (b) he or she will render any payment or performance required under the Agreement upon demand if Area Director fails or refuses punctually to do so; and
- (c) such liability will not be contingent or conditioned upon pursuit by Franchisor of any remedies against Area Director or any other person;
- (d) such liability will not be diminished, relieved or otherwise affected by any subsequent rider or amendment to the Agreement or by any extension of time, credit or other indulgence that Franchisor may from time to time grant to Area Director or to any other person, including, without limitation, the acceptance of any partial payment or performance, or the compromise or release of any claims, none of which will in any way modify or amend this Guaranty, which will be continuing and irrevocable throughout the term of the Agreement and for so long thereafter as there are any monies or obligations owing by Area Director to Franchisor under the Agreement; and
- (e) Area Director's written acknowledgment, accepted in writing by Franchisor, or the judgment of any court or arbitration panel of competent jurisdiction establishing the amount due from Area Director will be conclusive and binding on the undersigned as Guarantors.

Each Guarantor also makes all of the covenants, representations, warranties and agreements of the Owners set forth in the Agreement and is obligated to perform thereunder.

If Franchisor is required to enforce this Guaranty in an administrative, judicial or arbitration proceeding, and prevail in such proceeding, Franchisor will be entitled to reimbursement of Franchisor's costs and expenses, including, but not limited to, legal and accounting fees and costs, administrative, arbitrators' and expert witness fees, costs of investigation and proof of facts, court costs, other expenses of an administrative, judicial or arbitration proceeding and travel and living expenses, whether incurred prior

to, in preparation for or in contemplation of the filing of any such proceeding. If Franchisor is required to engage legal counsel in connection with any failure by the undersigned to comply with this Guaranty, the Guarantors will reimburse Franchisor for any of the above-listed costs and expenses incurred by Franchisor.

**IN WITNESS WHEREOF**, each Guarantor has hereunto affixed his signature on the same day and year as the Agreement was executed.

GUARANTOR

\_\_\_\_\_  
Individually

**EXHIBIT C**  
**CONFIDENTIALITY AGREEMENT AND ANCILLARY**  
**COVENANTS NOT TO COMPETE**

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, between HAPPY JOE'S FRANCHISING, INC., an Iowa corporation ("**Franchisor**"), \_\_\_\_\_ ("**Area Director**"), and \_\_\_\_\_ ("**Covenantor**") in connection with an area director agreement between Franchisor and Area Director dated \_\_\_\_\_, 20\_\_ ("**Area Director Agreement**"). Initially capitalized terms used, but not defined in this Agreement, have the meanings contained in the Area Director Agreement.

**BACKGROUND**

- A. Franchisor has the right to use and license the use of a System for the establishment and operation of Franchisor Restaurants.
- B. The System is identified by certain Marks including, the mark "HAPPY JOE'S PIZZA," and includes certain Confidential Information which provides economic advantages to Franchisor and licensed users of the System.
- C. Franchisor has granted Area Director the right to solicit the sale and support of Franchisor Restaurants in Area Director's Territory (as that term is defined in the Area Director Agreement) pursuant to the terms and conditions of the Area Director Agreement.
- D. In connection with his or her duties, it will be necessary for Covenantor to have access to some or all of the Confidential Information.
- E. Franchisor and Area Director have agreed on the importance of restricting the use, access and dissemination of the Confidential Information, and Area Director therefore has agreed to obtain from Covenantor a written agreement protecting the Confidential Information and further protecting the System against unfair competition.
- F. 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. Covenantor shall, at all times, maintain the confidentiality of the Confidential Information and shall use such Confidential Information only in the course of his or her employment by or association with Area Director in connection with the sale and support of Franchisor Restaurants under the Area Director Agreement.
- 2. 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.
- 3. Covenantor shall not at any time disclose or permit the disclosure of the Confidential Information except to other employees of Area Director and only to the limited extent necessary to train or assist other employees of Area Director in the sale and support of the HAPPY JOE'S PIZZA Restaurants.
- 4. Covenantor shall surrender any material containing some or all of the Confidential Information to Area Director or Franchisor, upon request, or upon termination of employment by Area Director.
- 5. 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 System.

6. Covenantor acknowledges that all Manuals are loaned by Franchisor to Area Director for limited purposes only and remain the property of Franchisor. Covenantor agrees that no Manuals may be reproduced, in whole or in part, without Franchisor's written consent.

### **Covenants Not to Compete**

In order to protect the goodwill of the System, and in consideration for the disclosure of the Confidential Information to Covenantor, Covenantor agrees that, during the term of his or her association with or employment by Area Director, and for a period of one (1) year following the earlier of (i) the termination thereof, or (ii) the termination, expiration or transfer of Area Director's interest in the Area Director Agreement, Covenantor will not, without Franchisor's prior written consent or as permitted under valid Franchise Agreements for Franchisor Restaurants:

a. Directly or indirectly divert, or attempt to divert any business opportunity or customer of the Restaurant to any competitor; and

b. Directly or indirectly, for himself or through, on behalf of, or in conjunction with any other person, persons, partnership, corporation, limited liability company, or other association, or entity, own, maintain, operate, engage in or have any financial or beneficial interest in, advise, assist or make loans to, any business that offers or provides (or grants franchises or licenses to others to operate a business that offers or provides) homemade ice cream or dessert items of the type offered by HAPPY JOE'S PIZZA Restaurants and which is, or is intended to be, located within the Territory or within a five (5)-mile radius of any HAPPY JOE'S PIZZA Restaurant then in existence or under construction.

### **Owner's Undertaking**

Covenantor also makes all of the covenants, representations, warranties and agreements of the Owners set forth in Sections 11, 22, and 23 of the Area Director Agreement and is obligated to perform thereunder.

### **Miscellaneous**

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

2. Covenantor agrees that:

a. Each of the covenants herein contain 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.

b. 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 shall 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.

c. In the event of a breach of this Agreement, Franchisor would be irreparably injured and without an adequate remedy at law and, therefore, upon any such breach or attempted breach of any provision hereof, Franchisor shall be entitled, in addition to any other remedies which it may have at law or in equity, 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 and costs) incurred by Franchisor and Area Director in enforcing this Agreement.

4. Any failure by Franchisor or Area Director 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 of any subsequent breach by Covenantor.

**5. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED**

**IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT REFERENCE TO TEXAS CONFLICT OF LAW PRINCIPLES. COVENANTOR HEREBY IRREVOCABLY SUBMITS HIMSELF TO THE JURISDICTION OF THE STATE AND FEDERAL DISTRICT COURTS LOCATED IN THE STATE, COUNTY OR JUDICIAL DISTRICT IN WHICH THE FRANCHISOR'S PRINCIPAL PLACE OF BUSINESS 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 IN ANY PROCEEDING RELATING TO OR ARISING UNDER THIS AGREEMENT OR THE RELATIONSHIP CREATED BY THIS AGREEMENT BY ANY MEANS ALLOWED BY TEXAS OR FEDERAL LAW. COVENANTOR FURTHER AGREES THAT VENUE FOR ANY PROCEEDING RELATING TO OR ARISING OUT OF THIS AGREEMENT SHALL BE THE COUNTY OR JUDICIAL DISTRICT IN WHICH THE FRANCHISOR'S PRINCIPAL PLACE OF BUSINESS IS LOCATED; PROVIDED, HOWEVER, WITH RESPECT TO ANY ACTION WHICH INCLUDES INJUNCTIVE RELIEF OR OTHER EXTRAORDINARY RELIEF, EITHER PARTY MAY BRING SUCH ACTION IN ANY COURT IN ANY STATE WHICH HAS JURISDICTION.**

6. 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.

7. Any and all notices required or permitted under this Agreement shall be in writing and shall be personally delivered or mailed by expedited delivery service or certified or registered mail, return receipt requested, first-class postage prepaid, or sent by facsimile or electronic mail 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:

HAPPY JOE'S FRANCHISING, INC.

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

Attention: President

If directed to Area Director, the notice shall be addressed to:

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

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

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

Facsimile: (\_\_\_\_) \_\_\_\_\_

Any notice shall be deemed to have been given at the time of personal delivery or, in the case of expedited delivery service on the next Business Day, or, in the case of or registered or certified mail, three (3) Business Days after the date and time of mailing, or, in the case of facsimile or electronic mail, upon transmission (provided confirmation is sent by expedited delivery service or registered or certified mail).

8. Franchisor and its successors and assigns shall be third party beneficiaries of this Agreement, with the full and independent right, at their option and in their sole discretion, to enforce this Agreement.

9. The rights and remedies of Franchisor under this Agreement are fully assignable and transferable and shall insure to the benefit of its respective affiliates, successors and assigns. The respective obligations of Area Director and Covenantor hereunder may not be assigned by Area Director 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:**

HAPPY JOE'S FRANCHISING, INC.  
an Iowa corporation

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

**AREA DIRECTOR:**

\_\_\_\_\_, Individually  
Date: \_\_\_\_\_

**COVENANTOR:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Date: \_\_\_\_\_

**HAPPY JOE'S FRANCHISING, INC.**  
**LIST OF STATE ADMINISTRATORS**  
**EXHIBIT C TO THE FRANCHISE DISCLOSURE DOCUMENT**

## LIST OF STATE ADMINISTRATORS

### California

Department of Financial Protection and  
Innovation  
320 West 4th Street, Suite 750  
Los Angeles, California 90013  
(866) 275-2677

### Hawaii

Commissioner of Securities of the State of Hawaii  
Department of Commerce and Consumer Affairs  
Business Registration Division  
Securities Compliance Branch  
335 Merchant Street, Room 203  
Honolulu, Hawaii 96813  
(808) 586-2722

### Illinois

Office of Attorney General  
500 S. Second Street  
Springfield, Illinois 62701  
(217) 782-4465

### Indiana

Franchise Section  
Securities Division  
302 W. Washington St., Room E-111  
Indianapolis, Indiana 46204  
(317) 232-6681

### Maryland

Office of Attorney General  
Securities Division  
200 St. Paul Place  
Baltimore, Maryland 21202  
(410) 576-7042

### Michigan

Consumer Protection Division  
Antitrust and Franchise Unit  
Department of Attorney General  
525 W. Ottawa St.  
G. Mennen Williams Bldg., 1<sup>st</sup> Floor  
Lansing, Michigan 48913  
(517) 373-7117

### Minnesota

Department of Commerce  
85 7<sup>th</sup> Place East, Suite 280  
St. Paul, Minnesota 55101  
(651) 539-1627

### New York

NYS Department of Law  
Investor Protection Bureau  
28 Liberty Street, 21<sup>st</sup> Floor  
New York, New York 10005  
212-416-8222

### North Dakota

North Dakota Securities Department  
600 East Boulevard Avenue  
State Capitol – 14<sup>th</sup> Floor Dept. 414  
Bismarck, North Dakota 58505-0510  
(701) 328-4712

### Rhode Island

Securities Division  
Department of Business Regulation  
1511 Pontiac Avenue  
John O. Pastore Complex – Building 68-2  
Cranston, Rhode Island 02920  
(401) 462-9527

### South Dakota

Division of Insurance  
Securities Regulation  
124 S. Euclid Ave., Suite 104  
Pierre, South Dakota 57501  
(605) 773-3563

### Virginia

State Corporation Commission  
Division of Securities and Retail  
Franchising  
1300 Main Street, 14th Floor  
Richmond, Virginia 23219  
(804) 371-9051

### Washington

Department of Financial Institutions  
Securities Division  
P.O. Box 9033  
Olympia, Washington 98507  
(360) 902-8760

### Wisconsin

Franchise Administrator  
Division of Securities  
Department of Financial Institutions  
345 West Washington Avenue  
Madison, Wisconsin 53703

**HAPPY JOE'S FRANCHISING, INC.**  
**LIST OF AGENTS FOR SERVICE OF PROCESS**  
**EXHIBIT D TO THE FRANCHISE DISCLOSURE DOCUMENT**

**AGENTS FOR SERVICE OF PROCESS**

Minnesota

Minnesota Commissioner of Commerce  
85 7<sup>th</sup> Place East, Suite 280  
St. Paul, MN 55101  
(651) 539-1600

**HAPPY JOE'S FRANCHISING, INC.**  
**TABLE OF CONTENTS OF THE MANUALS**  
**EXHIBIT E TO THE FRANCHISE DISCLOSURE DOCUMENT**

**HAPPY JOE'S FRANCHISING, INC.**  
**LIST OF CURRENT AND FORMER AREA DIRECTORS**  
**EXHIBIT F TO THE FRANCHISE DISCLOSURE DOCUMENT**

List of Area Directors as of September 30, 2023

<b>Area Director</b>	<b>Street Address</b>	<b>City</b>	<b>ST</b>	<b>Zip</b>	<b>Phone</b>
Michael Fasching	626 S. 38 <sup>th</sup> Street, W23rd	Billings	MT	59102	406-969-1249

Note 1. We have also entered into an Area Director Agreement with Ahmed El Batran for the Middle East.

List of Area Directors who Left the System Between October 1, 2022 and September 30, 2023

None.

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

**HAPPY JOE'S FRANCHISING, INC.**  
**STATE EFFECTIVE DATES**  
**EXHIBIT G TO THE FRANCHISE DISCLOSURE DOCUMENT**

### **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	Not Registered.
Hawaii	Not Registered.
Illinois	Not Registered.
Indiana	Not Registered.
Maryland	Not Registered.
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	Not Registered.
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.

**HAPPY JOE'S FRANCHISING, INC.**  
**RECEIPTS**  
**EXHIBIT H TO THE FRANCHISE DISCLOSURE DOCUMENT**

**COPY FOR FRANCHISEE**

**RECEIPT**

This Disclosure Document summarizes provisions of the Area Director Agreement and other information in plain language. Read this Disclosure Document and all agreements carefully.

If Happy Joe's Franchising, 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.

If Happy Joe's Franchising, 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 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 in Exhibit D.

The name, principal business address and telephone number of each franchise seller offering the franchise:

Thomas Sacco, 5239 Grand Avenue, Davenport, Iowa, 52807, (563)332-8811 and Kat Davidson, P O Box 191274, Dallas, TX 75219, 678-485-8413.

**Check and add additional franchise seller(s) as applicable:**

Hollie Matthys, 5239 Grand Avenue, Davenport, Iowa, 52807, (563)332-8811

\_\_\_\_\_.

Issuance date: January 29, 2024 as amended April 1, 2024.

See Exhibit D for our registered agents authorized to receive service of process.

I have received the Happy Joe's Franchising, Inc. Disclosure Document dated January 29, 2024 as amended April 1, 2024 that included the following Exhibits:

- A. Financial Statements
- B. Area Director Agreement and State Addenda.
- C. List of State Administrators
- D. List of Agents for Service of Process
- E. Table of Contents of the Manuals
- F. List of Current and Former Area Directors
- G. State Effective Dates
- H. Receipts

DATED: \_\_\_\_\_

SIGNED: , individually on behalf of

\_\_\_\_\_ *state name of entity and state of organization*

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE: \_\_\_\_\_

**COPY FOR FRANCHISOR  
RECEIPT**

This Disclosure Document summarizes provisions of the Area Director Agreement and other information in plain language. Read this Disclosure Document and all agreements carefully.

If Happy Joe's Franchising, 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.

If Happy Joe's Franchising, 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 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 in Exhibit D.

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- F. List of Current and Former Area Directors
- G. State Effective Dates
- H. Receipts

DATED: \_\_\_\_\_

SIGNED: , individually on behalf of

\_\_\_\_\_ *state name of entity and state of organization*

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE: \_\_\_\_\_