

## FRANCHISE DISCLOSURE DOCUMENT



**Reins USA Franchise Company, Inc.  
dba Gyu-Kaku**

a California Corporation  
20000 Mariner Avenue, Suite 500  
Torrance, California 90503  
(310) 214-9572

**Email:** [franchise@gyu-kaku.com](mailto:franchise@gyu-kaku.com)

**URL:** [www.gyu-kaku.com](http://www.gyu-kaku.com)

Reins USA Franchise Company, Inc. offers franchises for the operation of Japanese style “yakiniiku” restaurants at specified locations offering an assortment of meats, seafood, poultry, vegetables and deserts for customers to cook on state-of-the art charcoal roaster systems, as well as, proprietary dipping sauces, marinades, and a variety of alcoholic and non-alcoholic beverages.

The estimated investment necessary to begin operation of a Gyu-Kaku franchise unit franchise range is ~~\$2,268,261~~ ~~1,215,444~~ to ~~\$4,273,772~~ ~~2,606,540~~. This includes ~~\$101,500~~ ~~66,500~~ to ~~\$118,500~~ ~~406,500~~ that is paid to the franchisor and its affiliates.

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

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosure in different formats, contact ~~Masaki Koyama~~ Akitsugu Yamaguchi at 20000 Mariner Avenue, Suite 500, Torrance, California 90503, telephone (310) 214-9572.

The terms of your contract will govern your franchise relationship. Don't rely on the disclosure document alone to understand your contract. Read your entire contract carefully. Show your contract and this disclosure document to an advisor, such as a lawyer or an accountant.

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

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

Issuance Date: **June** ~~10, 2025~~ ~~18, 2024~~

**MN**

applications). We reserve the right to add, remove, or change required hardware and software with reasonable notice.

(5) We will provide you with opening assistance by our representatives during the first seven to 10 days after the opening date of your Licensed Restaurant. For first-time franchise owners, additional assistance will be provided during the first seven to 14 days before your opening date. These charges represent the aggregate costs of airfare, lodging, meals and car rental for two representatives.

(6) You must pay the expenses of individuals attending the Initial Training Program including transportation, lodging, meals and wages. The amount will depend, in part, on the distance you must travel and the type of accommodation you choose. The estimates provided above contemplate the training of one out of town person for 90 consecutive days in Los Angeles, California.

(7) As an independently owned and operated franchisee, you are responsible for all costs or liabilities arising from the operation of your Licensed Restaurant, and it is imperative you carry adequate insurance to protect yourself. You must obtain the insurance coverage required by the Franchise Agreement from a carrier that we approve (must have a rating of "A VII" or better issued by A. M. Best Company). You must maintain insurance of the types and minimum amounts (naming us as an additional insured) that we specify in the Manual. To the extent permissible under law, these insurance requirements may be satisfied with a combination of primary, umbrella or excess policies. All insurance policies will name you as named insured and (excepting Workers' Compensation insurance policies) will name us and any of our subsidiaries and affiliates of these companies that now exist or which may hereafter exist as additional insureds, including their employees, officers and directors on additional insured endorsement forms. The costs of premiums will vary based on location of the Licensed Restaurant and any prior claim history. The required coverage and limits are subject to change. You may obtain additional insurance as you desire.

(8) Although we do not require minimum funds for you to start your business, there are some expenses you will incur when you begin your franchise operations, such as inventory, supplies and employees. It is always a good idea to have some cash reserves available to cover initial operating expenses. This estimates the additional funds you will need for your first three months of operation. These expenses include payroll costs. We relied on the 22 years of related business experience of our Chief Operating Officer in determining these figures.

(9) These estimates cover your initial cash investment up to the opening of your Licensed Restaurant. They do not include your cash needs to cover any borrowings. You should not plan to draw income from the operation during the start-up and development stage of your Licensed Restaurant, which may extend for longer than the six-month "initial phase" described in Note 6. Although we cannot assure you this will happen, if you do not open for business, you may receive a refund from suppliers for unused inventory, unspent advertising and canceled insurance. Otherwise, the payments to individuals or entities other than us listed in the table above are typically not refundable. We do not finance any part of the initial investment.

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

### **Required Purchases of Goods or Services, including Computer and Point of Sale System**

You must purchase or lease an Aloha POS system. We have no obligation to provide or assist you in obtaining the POS system. You are responsible for all ongoing maintenance and repairs and upgrades to the POS system. In addition to the POS System, you may be required to purchase, use and maintain a personal computer system as specified in the

Except for applicable laws restricting discrimination against customers based on public policy, there are no restrictions on the customers to whom you may sell Authorized Gyu-Kaku Products and related products at your Licensed Restaurant.

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

### THE FRANCHISE RELATIONSHIP

This table lists certain important provisions of the Franchise Agreement. You should read these provisions in the agreements attached to this disclosure document.

|    | Provision                                       | Section in franchise agreement | Summary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----|-------------------------------------------------|--------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| a. | Length of the franchise term                    | 3.1                            | The initial term begins on the Effective Date of the Franchise Agreement and ends on the earlier date of (i) 11 years and six months following the Effective Date, or (ii) the date that is 10 years following the date your Licensed Restaurant opens to the public for business. The term may, in our discretion, be extended for two additional years if: (1) you must remodel your Licensed Restaurant, (2) the total cost of the remodeling is expected to exceed \$50,000, (3) the remodeling is to be commenced within two years prior to the expiration of your Franchise Agreement; and (4) you notify us that you do not intend to renew your Franchise Agreement.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| b. | Renewal or extension of the term                | 3.2                            | If you are complying with your Franchise Agreement, <u>upon written notice delivered to us not less than 120 days before the end of the existing term</u> , you may “renew” your Franchise <del>by entering into a successor</del> <u>our then current</u> Franchise Agreement <u>modified for renewal (“Renewal Franchise Agreement”)</u> with a <del>10 five-year term</del> <u>upon written notice delivered to us not less than 120 days before the end of the existing term</u> . However, we are not obligated to renew your Franchise if one or more of the conditions in section 3.2.4 of the Franchise Agreement apply to you. During the 4th <del>and 5th</del> years of the term of the <del>Successor Renewal</del> Franchise Agreement, you have a one-time option, <del>exercisable exercised</del> upon 30 days written notice, to terminate the <del>Successor Renewal</del> Franchise Agreement without cause. You have no further right to enter into <del>successor a Renewal</del> Franchise Agreements after the second <del>successor Renewal</del> Franchise Agreement, but you may apply for the right to operate a <u>Licensed</u> Restaurant pursuant to a new franchise agreement. |
| c. | Requirements for franchisees to renew or extend | 3.2 - 3.4                      | To be eligible to renew (entering into a <del>successor Renewal</del> Franchise Agreement with a <del>10 five-year term</del> ), you must have complied with your obligations during the term of your Franchise Agreement, must undertake remodeling to comply with out then-current standards, must not have three or more material defaults of your Franchise Agreement during any 36-month period. If eligible and you elect to renew, you must sign <del>our then current Franchise Agreement modified for renewal</del> <u>a “Renewal Franchise Agreement”</u> ), execute a release and pay a renewal fee. The Renewal Franchise Agreement may have terms and conditions materially different from your original Franchise Agreement.                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| d. | Termination by franchisee                       | 14.7                           | You may terminate at any time if we materially default, and if we do not cure the default within 60 days (or within 180 days is the default is curable, but it is not reasonable for you to cure it within 60 days) after our receipt of written notice detailing the alleged default. (This provision is subject to state law.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

**REINS USA FRANCHISE COMPANY, INC.**

**DBA GYU-KAKU**

**FRANCHISE AGREEMENT**

**EXHIBIT A-1**

## TABLE OF CONTENTS

|                                                                                                |    |
|------------------------------------------------------------------------------------------------|----|
| ARTICLE 1 DEFINITIONS .....                                                                    | 1  |
| 1.1 Certain Key Definitions and Applicable Information. ....                                   | 1  |
| 1.2 Defined Terms. ....                                                                        | 1  |
| ARTICLE 2 GRANT .....                                                                          | 6  |
| 2.1 Grant. ....                                                                                | 6  |
| 2.2 No Sublicensing Rights. ....                                                               | 6  |
| 2.3 Territorial Rights. ....                                                                   | 6  |
| ARTICLE 3 TERM AND RIGHT TO ENTER INTO <u>RENEWAL SUCCESSOR</u> FRANCHISE AGREEMENT .....      | 7  |
| 3.1 Initial Term. ....                                                                         | 7  |
| 3.2 Right to Enter into a <u>Renewal Successor</u> Franchise Agreement. ....                   | 7  |
| 3.3 Form and Manner of Exercising <u>Renewal Successor</u> Franchise Right. ....               | 7  |
| 3.4 Conditions Precedent to Entering into a <u>Renewal Successor</u> Franchise Agreement. .... | 7  |
| 3.5 Notice Required by Law. ....                                                               | 8  |
| ARTICLE 4 PAYMENTS .....                                                                       | 8  |
| 4.1 Initial Fee. ....                                                                          | 8  |
| 4.2 Continuing Royalty. ....                                                                   | 9  |
| 4.3 Advertising Fee. ....                                                                      | 9  |
| 4.4 Convention Registration Fee. ....                                                          | 9  |
| 4.5 First Right of Refusal To Open Second Licensed Restaurant. ....                            | 9  |
| 4.6 Other Payments. ....                                                                       | 10 |
| 4.7 Application of Funds. ....                                                                 | 10 |
| 4.8 Interest and Charges for Late Payments. ....                                               | 10 |
| 4.9 EFT and Pre-Authorized Payments. ....                                                      | 10 |
| ARTICLE 5 CONSTRUCTION AND COMMENCEMENT OF BUSINESS .....                                      | 11 |
| 5.1 Location. ....                                                                             | 11 |
| 5.2 Franchisor Site Selection Assistance. ....                                                 | 11 |
| 5.3 Lease or Purchase of Location. ....                                                        | 11 |
| 5.4 Construction. ....                                                                         | 12 |
| 5.5 Maintaining and Remodeling of Licensed Restaurant. ....                                    | 14 |
| 5.6 Market Introduction Advertising. ....                                                      | 15 |
| ARTICLE 6 TRAINING. ....                                                                       | 15 |
| 6.1 Initial Training Program. ....                                                             | 15 |
| 6.2 On-Site Training. ....                                                                     | 16 |
| 6.3 Additional Training. ....                                                                  | 16 |
| 6.4 Employee Certification Program. ....                                                       | 17 |
| 6.5 Other Assistance. ....                                                                     | 17 |
| ARTICLE 7 MANUALS AND STANDARDS OF OPERATOR QUALITY, CLEANLINESS AND SERVICE .....             | 17 |
| 7.1 Compliance with Applicable Law. ....                                                       | 17 |
| 7.2 Operating Principal and Management Employees. ....                                         | 18 |
| 7.3 POS System; Computer. ....                                                                 | 19 |
| 7.4 Manuals. ....                                                                              | 19 |
| 7.5 Hours. ....                                                                                | 20 |
| 7.6 Product Line and Service. ....                                                             | 20 |
| 7.7 Utensils, Fixtures and Other Goods. ....                                                   | 21 |
| 7.8 Menus. ....                                                                                | 21 |
| 7.9 Notification of Legal Proceedings; and Crisis Management Events. ....                      | 22 |
| 7.10 Signs. ....                                                                               | 22 |
| 7.11 Uniforms and Employee Appearance. ....                                                    | 22 |
| 7.12 Vending or Other Machines. ....                                                           | 22 |
| 7.13 Co-Branding. ....                                                                         | 22 |

## FRANCHISE AGREEMENT

This Franchise Agreement ("Agreement") is executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (the "Effective Date") by and between Reins USA Franchise Company, Inc., a California corporation ("Franchisor"), and \_\_\_\_\_, a \_\_\_\_\_ ("Franchisee"), with reference to the following:

A. Rex Holdings Co., Ltd., an "Affiliate" (as defined below) of Franchisor, has granted Franchisor the right to sublicense the "Gyu-Kaku" name and service mark, and such other trademarks, service marks, logo types and commercial symbols as Franchisor may from time to time authorize or direct Franchisee to use in connection with the operation of the Licensed Restaurant (the "Marks").

B. Franchisor and its Affiliates have developed and continue to develop, and Franchisor has the right to sublicense, a System for the operation of Asian style "yakinuku" Restaurants.

C. Franchisee desires to obtain the license and franchise to operate a single Restaurant, under the Marks and in strict accordance with the System, and the standards and specifications established by Franchisor; and Franchisor is willing to grant Franchisee such license and franchise under the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter contained and for other good and valuable consideration (the receipt and sufficiency of which is acknowledged by each of the parties hereto) the parties agree as follows:

### ARTICLE 1 DEFINITIONS

1.1 Certain Key Definitions and Applicable Information. In this Agreement the following capitalized terms shall have the meanings set forth below, unless the context otherwise requires:

**"Initial Fee"** means \$50,000.

**"Franchisor"** means Reins USA Franchise Company, Inc. and in any section of this Agreement which contains a release or other exculpatory language in favor of Franchisor, the term "Franchisor" shall also mean its affiliates, franchisees and their respective directors, officers, servants, employees and agents of Franchisor, and Franchisor, solely for the purpose of any such section, is the agent or trustee of, and for the benefit of, each of them.

**"Location"** means the address of the "Licensed Restaurant" indicated in Exhibit 1 of this Agreement.

**"Operating Principal"** means \_\_\_\_\_, or such other individual hereafter designated by Franchisee, and accepted by Franchisor (and until subsequently disapproved by Franchisor), to serve as the authorized representative of Franchisee, who Franchisee acknowledges and agrees shall act as Franchisee's representative and shall have the authority to act on behalf of Franchisee during the Term.

1.2 Defined Terms. In this Agreement the following capitalized terms shall have the meanings set forth below, unless the context otherwise requires:

**"Accounting Period"** means one of three consecutive multi-week (each week to be Monday through Sunday) periods of (i) four weeks, (ii) four weeks and (iii) five weeks in each 13 consecutive weeks during the Term hereof.

**"Additional Training"** shall have the meaning set forth in Section 6.3.3 of this Agreement.

**"Advertising Fee"** shall have the meaning set forth in Section 4.3 of this Agreement.

**"Affiliate"** when used herein in connection with Franchisor or Franchisee, includes each person or Entity which directly, or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with Franchisor or Franchisee, as applicable. Without limiting the foregoing, the term "Affiliate" when used herein in connection with Franchisee includes any Entity 10% or more of whose Equity or voting control, is held

by person(s) or Entities who, jointly or severally, hold 10% or more of the Equity or voting control of Franchisee. For purposes of this definition, control of a person or Entity means the power, direct or indirect, to direct or cause the direction of the management and policies of such person or Entity whether by contract or otherwise. Notwithstanding the foregoing definition, if Franchisor or its Affiliate has any ownership interest in Franchisee, the term "Affiliate" shall not include or refer to the Franchisor or that Affiliate, and no obligation or restriction upon an "Affiliate" of Franchisee, shall bind Franchisor, or said Affiliate or their respective direct and indirect parents or subsidiaries, or their respective officers, directors, or managers.

**"Agreement"** means this Franchise Agreement.

**"Anti-Terror Legislation"** means the *International Money Laundering Abatement and Anti-Terrorist Financing Act* (aka the "Patriot Act") and any amendments or successors thereto, and other similar or successor legislation.

**"Applicable Law"** means and includes applicable common law and all applicable statutes, laws, rules, regulations, ordinances, policies and procedures established by any Governmental Authority, governing the development, construction and operation of the Licensed Restaurant, including all labor, immigration, food and drug laws and regulations, as in effect on the Effective Date hereof, and as may be amended, supplemented or enacted from time to time.

**"Assignment"** shall have the meaning set forth in Section 13.2.1 of this Agreement.

**"Authorized Gyu-Kaku Products"** means the specific Asian-style foods products, sauces, marinades, beverages and other food items and ancillary related products, which may include books, hats, t-shirts and novelty items, as specified by Franchisor from time to time in the Manuals, or as otherwise directed by Franchisor in writing, for sale at a Licensed Restaurant, prepared, sold and/or manufactured in strict accordance with Franchisor's recipes, standards and specifications, including specifications as to ingredients, brand names, preparation and presentation.

**"Brand Development Fund"** shall have the meaning set forth in Section 4.3 of this Agreement.

**"Certified"** as such term relates to Franchisee's employees and others, means (i) that the applicable person(s) has or have obtained the status of certified under the Employee Certification Program, if Franchisor offers the Employee Certification Program for the applicable category of employee; or (ii) that the applicable person(s) has or have been accepted by Franchisor to perform the task(s) that has or have been assigned to the person(s), if Franchisor does not offer the Employee Certification Program.

**"Competitive Activities"** means to, own, operate, lend to, advise, be employed by, or have any financial interest in (i) any Asian barbeque-style restaurant or retail outlet, (ii) any restaurant or retail outlet that offers customers the opportunity to cook or heat food items with an in-table or on table grill or other heating element; (iii) any restaurant business that utilizes the Ventilation System or another system of in-table or on-table down-draft exhaust ventilation, or (iv) any business that engages in the production or sale at retail or wholesale of any Japanese food product, Asian-style food product or other featured menu item which is now or in the future an Authorized Gyu-Kaku Product, other than a Licensed Restaurant operated pursuant to a validly subsisting franchise agreement with Franchisor. Notwithstanding the foregoing, "Competitive Activities" shall not include the direct or indirect ownership solely as an investment, of securities of any Entity which are traded on any national securities exchange if the owner thereof (i) is not a controlling person of, or a member of a group which controls, such Entity and (ii) does not, directly or indirectly, own 5% or more of any class of securities of such Entity.

**"Computer System"** shall have the meaning set forth in Section 7.3.2 of this Agreement.

**"Continuing Royalty"** shall have the meaning set forth in Section 4.2 of this Agreement.

**"Convention Registration Fee"** shall have the meaning set forth in Section 4.4 of this Agreement.

**"Co-op Advertising Regions"** shall have the meaning set forth in Section 8.2 of this Agreement.

**"Crisis Management Event"** means any event that occurs at or about the Licensed Restaurant that has or may cause harm or injury to customers or employees, such as food contamination, food spoilage/poisoning, food tampering/sabotage, contagious diseases, natural disasters, terrorist acts, shootings, or any other

**“GYU-KAKU Brand Product”** means any product now existing or developed in the future that bears any of the Marks.

**“Heirs”** shall have the meaning set forth in Section 14.3.2 of this Agreement.

**“Information”** shall have the meaning set forth in Section 10.1 of this Agreement.

**“Initial Fee”** shall have the meaning set forth in Sections 1.1 and 4.1 of this Agreement.

**“Internet”** means collectively the myriad of computer and telecommunications facilities, including equipment and software, which comprise the interconnected worldwide network of networks that employ the TCP/IP [Transmission Control Protocol/Internet Protocol], or any predecessor or successor protocols to such protocol, to communicate information of all kinds by fiber optics, wire, radio, or other methods of transmission.

**“Lease”** shall mean any agreement, however denominated, that allows Franchisee to occupy a Location owned by a third party, including any lease, sublease, concession agreement, license, and similar arrangement between Franchisee and a third party.

**“Licensed Restaurant”** means, as context requires, the Restaurant ~~at the Location~~ **at a location approved by Franchisor** to be developed, or already developed, ~~at the Location~~ by Franchisee pursuant to this Agreement. The Licensed Restaurant may not open for business until at least 10 days after the Franchisee obtains all necessary and required permits and government clearances.

**“Local Advertising Expenditure”** shall have the meaning set forth in Section 8.1 of this Agreement.

**“Manuals”** means Franchisor’s library of operations and training manuals, including start-up manual and franchise unit operation manual, and any other written directive related to the System, as the same may be amended and revised from time to time, including all bulletins, supplements and ancillary and additional manuals and written directives established by Franchisor as in effect and amended from time to time.

**“Market Introduction Program”** shall have the meaning set forth in Section 5.6 of this Agreement.

**“Marks”** shall have the meaning set forth in Recital A above.

**“Non-Proprietary Products”** shall have the meaning set forth in Section 9.3 of this Agreement.

**“Non-Traditional Venue”** is a facility operated under the Marks located within another primary business or in conjunction with other businesses or at institutional settings, including toll roads, hotels and motels, casinos, stadiums, airports, colleges and universities, schools, hospitals, military and other governmental facilities, office or in-plant food service facilities, shopping mall food courts operated by a master concessionaire, grocery stores, supermarkets and convenience stores and any site for which the landlord, owner or operator thereof shall have indicated its intent to prefer or limit the operation of its food service facilities to a master concessionaire or contract food service provider.

**“Notice of Election”** shall have the meaning set forth in Section 3.3.1 of this Agreement.

**“On-Site Training”** shall have the meaning set forth in Section 6.2 of this Agreement.

**“Owner”** means any direct or indirect shareholder, member, general or limited partner, trustee, or other equity owner of an Entity, except, that if Franchisor or any Affiliate of Franchisor has any ownership interest in Franchisee, the term “Owner” shall not include or refer to the Franchisor or that Affiliate or their respective direct and indirect parents and subsidiaries, and no obligation or restriction upon the “Franchisee”, or its Owners shall bind Franchisor, or said Affiliate or their respective direct and indirect parents and subsidiaries or their respective officers, directors, or managers.

**“Partnership Rights”** means voting power, property, profits or losses, or partnership interests of a Partnership.

**“Partnership”** means any general partnership, limited partnership, or limited liability partnership.

**"Permits"** means and includes all applicable franchises, licenses, permits, registrations, certificates and other operating authority required by Applicable Law.

**"POS System"** shall have the meaning set forth in Section 7.3.1(a) of this Agreement.

**"Premises"** means the premises owned, leased or subleased by Franchisee at which the Licensed Restaurant is located.

**"Principal Equity Owner"** shall mean each person owning 10% or more of Franchisee.

**"Proprietary Software"** shall have the meaning set forth in Section 7.3.1(b) of this Agreement.

**"Proprietary Products"** shall have the meaning set forth in Section 9.2 of this Agreement.

**"Purchase Option"** shall have the meaning set forth in Section 13.2.3(c) of this Agreement.

**"~~Renewal Successor~~ Franchise Right"** shall have the meaning set forth in Section 3.2 of this Agreement.

**"~~Renewal Successor~~ Franchise Agreement"** means a Franchise Agreement entered into between Franchisor and Franchisee, under which Franchisee is granted the right to continue to operate the Licensed Restaurant for an additional ~~10~~ five-year term.

**"~~Renewal Successor~~ Term"** means the additional ~~10~~ five-year term granted under a ~~Renewal Successor~~ Franchise Agreement.

**"Restaurant"** means a restaurant being developed or operated, as the case may be, under the Marks and in accordance with the System and specializing in the sale of Authorized Gyu-Kaku Products for on-premises consumption.

**"Restaurant Manager"** means an individual, acceptable to, and Certified by, Franchisor, and responsible for overseeing the operation of the Licensed Restaurant.

**"Restaurant Manager Incentive Program"** shall have the meaning set forth in Section 7.2.4 of this Agreement.

**"Restricted Persons"** means Franchisee, and each of its Owners and Affiliates, and the respective officers, directors, managers, and Affiliates of each of them, the "Operating Principal" (usually the trained Restaurant Manager), and the spouse and family members who live in the same household of each of the foregoing who are individuals.

**"Site Review Request"** shall have the meaning set forth in Section 5.1.1 of this Agreement.

**"ServSafe"** means the food safety training program administered by the National Restaurant Association Educational Foundation under the "ServSafe" name, or such other or additional food safety program or certification program designated or accepted by Franchisor from time to time for the jurisdiction in which the Licensed Restaurant is located.

**"Supplier"** shall have the meaning set forth in Section 9.3 of this Agreement.

**"System"** means the Franchisor's operating methods and business practices related to its Licensed Restaurants, and the relationship between Franchisor and its franchisees, including distinctive interior and exterior Licensed Restaurant designs, including architectural designs, layout plans, and the Ventilation System; other items of trade dress; specifications for equipment, fixtures, and uniforms; defined product offerings, recipes, and preparation methods; signs; Trade Secrets and other confidential information; restrictions on ownership; inventory techniques, standard operating and administrative procedures; management and technical training programs; and marketing and public relations programs; all as Franchisor may modify the same from time to time.

**"Term"** shall have the meaning set forth in Section 3.1 of this Agreement including any extensions thereof.

“Territory” shall have the meaning set forth in Section 2.3.1 of this Agreement.

“Trade Secret” means Franchisor’s proprietary and confidential information, including, recipes, ingredients, specifications, procedures, policies, concepts, systems, know-how, plans, software, strategies, and methods and techniques of operating the Licensed Restaurant and producing Authorized Gyu-Kaku Products, excluding information that is or becomes a part of the public domain through publication or communication by third parties not bound by any confidentiality obligation or that Franchisee can show was already lawfully in Franchisee’s possession before receipt from Franchisor or that Franchisee may possess through managing or owning other restaurants, provided that upon Franchisor’s request, Franchisee must provide Franchisor with reasonable evidence verifying that it possesses such information as a result of such management or ownership. The term “Trade Secret” also means information constituting a trade secret within the meaning of the Defend Trade Secrets Act of 2016 (18 U.S.C. § 1836, *et seq.*), as amended.

~~“Traditional Restaurant” is a business premises that exists primarily as a Restaurant, excluding any Restaurant at a Non-Traditional Venue, however, which Traditional Restaurant may also have other types of Franchisor approved co-branded businesses located in it, but in such case the Restaurant is the primary business.~~

“Ventilation System” means the table-top downdraft ventilation system specified or designated or approved by Franchisor from time to time for use in Restaurants, including the Licensed Restaurant.

## ARTICLE 2 GRANT

2.1 Grant. Franchisor hereby awards Franchisee, and Franchisee hereby accepts, the right, license and obligation, during the Term, to use and display the Marks, and to use the System, to operate one (1) Restaurant at, and only at, the Location upon the terms and subject to the provisions of this Agreement and all ancillary documents hereto. Without limiting the foregoing, except as specifically authorized by Franchisor in the Manuals or otherwise in writing, Franchisee may not offer, sell or provide catering or take-out services.

2.2 No Sublicensing Rights. Franchisee may not sublicense, sublease, subcontract or enter any management agreement providing for, the right to operate the Licensed Restaurant or to use the System granted pursuant to this Agreement.

### 2.3 Territorial Rights.

2.3.1 During the Term, neither Franchisor nor any Affiliate of Franchisor shall open or operate any ~~Traditional restaurant that offers products and services that are substantially similar to a Licensed~~ Restaurant, nor license others to do so, within the geographic area described on Exhibit 1 (the “Territory”).

2.3.2 Except to the limited extent expressly provided in Section 2.3.1 of this Agreement, the license granted to the Franchisee under this Agreement is nonexclusive and Franchisor expressly reserves all other rights including, the exclusive, unrestricted right, in its discretion, directly and indirectly, itself and through its employees, Affiliates, representatives, franchisees, licensees, assignees, agents and others:

(a) to own or operate, and to license others (which may include its Affiliates) to own or operate (i) ~~R~~estaurants offering products and services that are substantially similar to a Licensed Restaurant at any location outside the Territory, (ii) Non-Traditional Venues at any location, and of any type whatsoever, outside the Territory; and (iii) restaurants not offering Asian-style foods products, sauces, marinades that are substantially similar to Authorized Gyu-Kaku Products, operating under names other than “GYU-KAKU” and any of the other Marks, at any location, within or outside the Territory and regardless of their proximity to the Licensed Restaurant; and

(b) to produce, license, distribute and market GYU-KAKU Brand Products, including pre-packaged dipping sauces, marinades, dressings and other food and beverage products; books; clothing; souvenirs and novelty items; through any outlet (regardless of its proximity to the Licensed Restaurant opened pursuant hereto), including grocery stores, supermarkets and convenience stores and through any distribution channel, at wholesale or retail, including by means of the Internet or Internet web site, mail order catalogues, direct mail advertising, delivery, catering and other distribution methods; and to advertise and promote the System through any means, including the Internet.

**ARTICLE 3**  
**TERM AND RIGHT TO ENTER INTO RENEWAL SUCCESSOR FRANCHISE AGREEMENT**

3.1 Initial Term. The term of this Agreement ("Term") begins on the Effective Date and will end on earlier of (i) 11 years and six months following the Effective Date, or (ii) the date which is 10 years following the date on which the Licensed Restaurant opens to the public for business, unless sooner terminated or extended pursuant hereto. Promptly following the Licensed Restaurant opening to the public, the parties shall mutually confirm in writing the date on which such event occurred; *provided that* the parties' failure to confirm such date shall not affect the Term of this Agreement, and in which case the date reflected on Franchisor's books and records as the date the Licensed Restaurant opened for business shall be determinative for all purposes.

3.2 Right to Enter into a Renewal Successor Franchise Agreement.

3.2.1 Subject to the conditions contained in Section 3.4 of this Agreement and Franchisee's compliance with Section 3.3 of this Agreement, and provided that Franchisor is then currently offering franchises in the same state in which Franchisee's Licensed Restaurant is located, at the expiration of the Term hereof, Franchisee shall have the right (the "Renewal Successor Franchise Right") to enter into a new franchise agreement in the form then generally being offered to prospective franchisees of the System (the "Renewal Successor Franchise Agreement") for a 10 five year period (the "Renewal Successor Term"). If at the time the Renewal Successor Term is to commence, Franchisee does not fully meet the qualifications then established for a new Gyu-Kaku franchisee under the then-current form of Gyu-Kaku franchise agreement, this box [ ] will be checked and the Renewal Successor Term will be shortened to \_\_\_\_\_ years. Also, if the term of the lease for the premises on which Franchisee's Licensed Restaurant is located will be less than 10 five years at the beginning of the Renewal Successor Term, this box [ ] will be checked and the Renewal Successor Term will be shortened to the remaining term of the lease. Franchisee acknowledges that the Continuing Royalty and Advertising Fee payable during the Renewal Successor Term shall be at the rates then generally applicable to new franchisees granted at the time.

3.2.2 The term of the Renewal Successor Franchise Agreement shall commence upon the date of expiration of the Term hereof; provided, however, that notwithstanding the terms of Franchisor's then-current form of Franchise Agreement, Franchisee shall not be required to pay an Initial Fee nor attend the Initial Training program described in Section 6.1 hereof.

3.3 Form and Manner of Exercising Renewal Successor Franchise Right. The Renewal Successor Franchise Right must be exercised, if at all, strictly in the following manner:

3.3.1 At least nine months before the expiration of the Term, Franchisee shall notify Franchisor in writing ("Notice of Election") that it intends to exercise its Renewal Successor Franchise Right and no sooner than immediately after the expiration of any waiting period(s) by Applicable Law and no more than 60 days after Franchisee receives a current Franchise Disclosure Document, if applicable, and execution copies of the Renewal Successor Franchise Agreement, Franchisee shall execute the copies of said Renewal Successor Franchise Agreement and return them to Franchisor.

3.3.2 If Franchisee shall have exercised its Renewal Successor Franchise Right in accordance with Section 3.3.1 of this Agreement and satisfied all of the conditions contained in Section 3.4 of this Agreement, Franchisor shall execute the Renewal Successor Franchise Agreement, executed by Franchisee and at or prior to the expiration of the Term or Renewal Successor Term, as the case may be, deliver one fully executed copy thereof to Franchisee.

3.3.3 If Franchisee fails to perform any of the acts, or deliver any of the notices required pursuant to the provisions of Sections 3.3 or 3.4 of this Agreement, in a timely fashion, such failure shall be deemed an election by Franchisee not to exercise its Renewal Successor Franchise Right and shall automatically cause Franchisee's said Renewal Successor Franchise Right to lapse and expire.

3.4 Conditions Precedent to Entering into a Renewal Successor Franchise Agreement. Franchisee's Renewal Successor Franchise Right is conditioned upon Franchisee's fulfillment of each and all of the following conditions precedent:

3.4.1 At the time Franchisee delivers its Notice of Election to Franchisor and at all times thereafter until the commencement of the Renewal Successor Term, Franchisee shall have fully performed, in all

material respects, all of its material obligations under this Agreement, the Manuals and all other agreements then in effect between Franchisee and Franchisor (or its Affiliates).

3.4.2 At Franchisor's request, Franchisee shall, prior to the date of commencement of the ~~Renewal Successor~~ Term, undertake and complete at its expense, the remodeling, renovation, modernization, or refurbishing of the Premises, Location and the Licensed Restaurant, which may include installation of new or replacement equipment, to comply with Franchisor's then-current specifications and standards for new Restaurants.

3.4.3 Without limiting the generality of Section 3.4.1 of this Agreement, Franchisee shall not have committed three or more material defaults of Articles 4, 7, 9, 10, 11 or 12 of the Agreement during any 36-month period during the Term or ~~Renewal Successor~~ Term, as the case may be, of this Agreement for which Franchisor shall have delivered notices of default, whether or not such defaults were cured.

3.4.4 Franchisee, and Franchisee's employees, as applicable, shall comply with Franchisor's then-current qualification, training and certification requirements at Franchisee's expense.

3.4.5 Concurrently with the execution of the first ~~Renewal Successor~~ Franchise Agreement, Franchisee shall, and shall cause each of its Affiliates to, execute and deliver to Franchisor a general release, on a form prescribed by Franchisor of any and all known and unknown claims against Franchisor and its Affiliates and their officers, directors, agents, shareholders and employees.

3.4.6 When Franchisee signs the ~~Renewal Successor~~ Franchise Agreement, Franchisee must pay Franchisor a "Renewal Fee" of \$5,000.

3.5 Notice Required by Law. If Applicable Law requires that Franchisor give notice to Franchisee prior to the expiration of the Term, this Agreement shall remain in effect on a week-to-week basis until Franchisor has given the notice required by such Applicable Law. If Franchisor is not offering new franchises, is in the process of revising, amending or renewing its form of franchise agreement or Franchise Disclosure Document, if applicable, or is not lawfully able to offer Franchisee its then-current form of franchise agreement, at the time Franchisee delivers its Notice of Election, Franchisor may, in its discretion, (i) offer to renew this Agreement upon the same terms set forth herein for a ~~Renewal Successor~~ Term determined in accordance with Section 3.2 of this Agreement hereof, or (ii) offer to extend the Term hereof on a week to week basis following the expiration of the Term hereof for as long as it deems necessary or appropriate so that it may lawfully offer its then-current form of franchise agreement.

## ARTICLE 4 PAYMENTS

4.1 Initial Fee. The Initial Fee is \$50,000.

4.1.1 Upon execution hereof, Franchisee shall pay to Franchisor one half of the Initial Fee (\$25,000). This portion of the Initial Fee is not refundable. Franchisee will have six months after the Effective Date to secure a Lease for the Licensed ~~Location Restaurant~~ in the "Reserved Area" defined in Exhibit 1 of this Agreement. If Franchisee is unable to secure a Lease for the Licensed ~~Location Restaurant~~ within six months after the Effective Date, Franchisee may either extend the exclusive rights to the Reserved Area for an additional three months by paying a nonrefundable extension fee of \$15,000, or the Reserved Area will lapse, and other ~~Licensed~~ Restaurants may be opened by other Gyu-Kaku franchisees or affiliates of Franchisor.

4.1.2. Currently upon Franchisee's execution of a Lease for the Licensed ~~Location Restaurant~~, Franchisee will pay the remaining half of the Initial Fee (\$25,000). In the event that: (i) Franchisee, or its Operating Principal, as applicable, fails to complete the Initial Training Program as provided in Section 6.1 of this Agreement; (ii) Franchisee is unable to locate an acceptable ~~L~~ocation pursuant to Section 5.1 of this Agreement within six months following the Effective Date; (iii) Franchisee fails or is unable to obtain the appropriate building permits necessary to build and open the ~~Licensed~~ Restaurant, or (iv) Franchisee fails or is unable to obtain the license(s) or permit(s) necessary to sell alcoholic beverages (beer and wine only) at the ~~Licensed~~ Restaurant within 120 days after the signing of a Lease for the Licensed ~~Location Restaurant~~ (or 120 days after a Certificate of Occupancy is issued to Franchisee if that document is required for the alcoholic beverage license to be effective), Franchisor may, at its option, elect to terminate this Agreement, in which case, Franchisor shall refund the remaining half of the Initial Fee (\$25,000) less expenses incurred by Franchisor (legal, accounting, administrative

and otherwise) in connection with this Agreement. Except as specifically provided in the previous sentence, the Initial Fee is non-refundable, in whole or in part, under any circumstances.

4.2 Continuing Royalty. Franchisee shall pay to Franchisor, by Electronic Funds Transfer as provided in Section 4.8, on or before the 7th day following the end of each Accounting Period, a continuing royalty (the "Continuing Royalty") in an amount equal to Franchisee's Gross Sales for the previous Accounting Period multiplied by the applicable royalty rate shown on the following chart for the corresponding calendar year-to-date Gross Sales:

| <u>Percentage</u> | <u>Calendar Year Gross Sales</u> |
|-------------------|----------------------------------|
| 5.0%              | 0 to \$1,500,000.00              |
| 4.5%              | \$1,500,000.01 to \$2,000,000.00 |
| 4.0%              | \$2,000,000.01 and over          |

[For example, if Franchisee generates annual Gross Sales equal to \$2,100,000, Franchisee shall pay Franchisor the aggregate total of \$75,000, \$22,500 and \$4,000, which equals \$101,500.]

Notwithstanding the foregoing, if the Licensed Restaurant is subject to laws or restrictions which prohibit Franchisor from collecting Continuing Royalties on the sale of alcoholic beverages, the applicable Continuing Royalty percentage shall be increased by 2% of Gross Sales, excluding sales of alcoholic beverages.

4.3 Advertising Fee. Franchisee shall pay to Franchisor, by Electronic Funds Transfer, as provided in Section 4.8, simultaneously with its Continuing Royalty payments, an Advertising Fee equal to 1.5% of its Gross Sales during the preceding Accounting Period ("Advertising Fee"). Franchisor shall contribute the Advertising Fee to the Brand Development Fund to be administered in the manner provided in Section 8.3 of this Agreement (the "Brand Development Fund"). Pursuant to Section 8.2 of this Agreement, Franchisor may also establish a co-op advertising fund for Franchisee's region. The fee for co-operative advertising will be determined by each co-op advertising region, as described in Section 8.2.2 of this Agreement.

4.4 Convention Registration Fee. Franchisor may schedule conventions and other system-wide or regional meetings at times and locations chosen by Franchisor. Franchisee shall pay to Franchisor a registration fee equal to \$500 per attendee for each person registered to attend a Franchisor designated convention (the "Convention Registration Fee") to defray the costs of holding the convention. Franchisee and such of Franchisee's personnel designated by Franchisor shall attend each such convention, unless Franchisor otherwise excuses Franchisee upon a showing of good cause. Franchisee shall bear all costs of attending the convention. Franchisor reserves the right during the Term to adjust the Convention Registration Fee payable by Franchisee for each attendee from time to time, but not to an amount in excess of \$700 per attendee. Franchisee's failure to attend, and/or failure to cause such personnel as designed by Franchisor to attend, any convention, or other system or regional meeting two consecutive times without Franchisor's prior written consent (which consent shall not be unreasonably withheld) shall, without limiting or affecting the materiality of any other default of this Agreement, constitute a material default of this Agreement.

4.5 First Right of Refusal To Open Second Licensed Restaurant. For six months after the date the Licensed Restaurant opens and begins operating under this Agreement (the "Opening Date"), Franchisee would have a right to accept the terms of offers made by other prospective franchisees within the Reserved Area if they have consistently complied with the terms of this Agreement and other operating standards of Franchisor as expressed in the Manuals and subject to the following:

4.5.1 Any offer received by Franchisor from another prospective franchisee to open another Franchised Location in the Reserved Area will be communicated to Franchisee during this six-month period.

4.5.2 Franchisee would then have 90 days in which to decide whether to match the terms of the offer received by the other franchisee thereby committing to opening a second Franchised Location in the Reserved Area. If they do so, Franchisee would have to sign a separate Franchise Agreement for the second Franchised Location.

4.5.3 At the expiration of the six-month period after the Opening Date, if Franchisee has not then committed to opening a second Franchised Location, Franchisee may extend its rights to do so under this section 4.5 for up to two additional six-month periods, provided that it pays Franchisor a \$10,000 extension fee on or before the expiration date of the initial and second six-month period to exercise refusal rights.

4.6 Other Payments. In addition to all other payments provided herein, Franchisee shall pay to Franchisor, its Affiliates and designees, as applicable, promptly when due:

4.6.1 All amounts advanced by Franchisor or which Franchisor has paid, or for which Franchisor has become obligated to pay on behalf of Franchisee for any reason whatsoever.

4.6.2 The amount of all sales taxes, use taxes, personal property taxes and similar taxes, which shall be imposed upon Franchisee and required to be collected or paid by Franchisor (i) on account of Franchisee's Gross Sales, or (ii) on account of Continuing Royalties, Advertising Fees or Initial Fees collected by Franchisor from Franchisee (but excluding ordinary income taxes). Franchisor, in its discretion, may collect the taxes in the same manner as Continuing Royalties are collected herein and promptly pay the tax collections to the appropriate Governmental Authority; provided, however, that unless Franchisor so elects, it shall be Franchisee's responsibility to pay all sales, use or other taxes now or hereinafter imposed by any Governmental Authorities on Continuing Royalties, Initial Fees, or Advertising Fees.

4.6.3 All amounts ~~due that are payable~~ for any other reason, including (i) a flat *per diem* charge of \$50 for each employee of Franchisor who assists Franchisee with opening of the Licensed Restaurant, and (ii) on account of purchases of goods, supplies or services relating to the Licensed Restaurant.

4.7 Application of Funds. If Franchisee is delinquent in the payment of any obligation to Franchisor hereunder, or under any other agreement with Franchisor, Franchisor will have the absolute right to apply any payments received from Franchisee to any obligation owed, whether under this Agreement or otherwise, including to Franchisee's vendors, Suppliers and landlord, notwithstanding any contrary designation by Franchisee as to application.

4.8 Interest and Charges for Late Payments. If Franchisee fails to pay to Franchisor the entire amount of the Continuing Royalty, Advertising Fee and all other sums owed to Franchisor or its Affiliates, promptly when due, Franchisee must pay, in addition to all other amounts which are due but unpaid, interest on the unpaid amounts, from the due date thereof, at the rate of 1.5% per month, or the highest rate allowable under applicable law, whichever is less. If any check, draft, electronic transfer or otherwise, is unpaid because of insufficient funds or otherwise, then Franchisee shall pay Franchisor's expenses arising from such non-payment, including bank fees in the amount of at least \$50.00 and any other related expenses incurred by Franchisor.

#### 4.9 EFT and Pre-Authorized Payments.

4.9.1 Franchisee, at Franchisee's sole cost and expense, shall instruct its bank to pay the amount of its Continuing Royalty, Advertising Fee and other fees directly to Franchisor from Franchisee's account, by electronic funds transfer ("EFT") through the Automated Clearing House ("ACH") electronic network for financial transactions (or such other automatic payment mechanism which Franchisor may designate) directly from Franchisee's account into Franchisor's operating account. Promptly upon Franchisor's request, Franchisee shall execute or re-execute and deliver to Franchisor such pre-authorized check forms and other instruments or drafts required by Franchisor's bank, payable against Franchisee's bank account, to enable Franchisor to draw Franchisee's Continuing Royalty, Advertising Fee and other sums payable under the terms of this Agreement. Franchisee shall also, in addition to those terms and conditions set forth in the Manuals, maintain a single bank account for such payments (with reasonable overdraft protections) and shall maintain such minimum balance in such account as Franchisor may reasonably specify from time to time. Franchisee shall not alter or close such account except upon Franchisor's prior written approval. Any failure by Franchisee to implement such EFT system in strict compliance with Franchisor's instructions shall, without limiting the materiality of any other default of this Agreement, constitute a material default of this Agreement.

4.9.2 If Franchisee is delinquent more than two times in any continuous 36 month period during the Term in the payment of its Continuing Royalty, Advertising Fee or other fees, or of other sums due to Franchisor or to its Affiliates including on account of the purchase of goods or services, or fails to report its sales on a timely basis, Franchisor may require Franchisee to implement a system prescribed by Franchisor which shall permit Franchisor unilaterally to estimate and draw down the amounts owed by Franchisee, which system may

include EFT systems, automatic debits, use of Franchisee pre-authorized checks, other instruments or authority or any other arrangement Franchisor may prescribe. Franchisor may base its estimates of Advertising Fees, Continuing Royalties and similar payments which are calculated based on Gross Sales, on Franchisee's historically reported Gross Sales. Franchisee shall, without limiting the materiality of any other default of this Agreement, promptly implement such system in strict accordance with Franchisor's instructions and failure to do so shall constitute a material default of this Agreement.

## **ARTICLE 5 CONSTRUCTION AND COMMENCEMENT OF BUSINESS**

5.1 Location. Franchisee's Restaurant shall be located at the at the address indicated in Exhibit 1 of this Agreement (the "Location").

5.1.1 If no Location has been specifically identified in Exhibit 1 of this Agreement at the time of execution of this Agreement, promptly following the execution hereof, Franchisee shall locate one or more proposed sites which meet Franchisor's then-current standards and specifications. Franchisee shall submit to Franchisor such demographic and other information regarding the proposed site(s) and neighboring areas as Franchisor shall require, in the form prescribed by Franchisor ("Site Review Request"). Franchisor may seek such additional information as it deems necessary within 30 days of submission of Franchisee's Site Review Request, and Franchisee shall respond promptly to such request for additional information. If Franchisor shall not deliver written notice to Franchisee that Franchisor accepts the proposed site, within 30 days of receipt of Franchisee's Site Review Request, or within 15 days after receipt of such additional requested information, whichever is later, the site shall be deemed rejected. If the Franchisor accepts the proposed site, ~~Franchisor~~ #shall notify Franchisee of its acceptance of the site. Promptly following mutual execution of this Agreement, or Franchisor's acceptance of a proposed site, if no Location has been specifically identified in Exhibit 1 of this Agreement when this Agreement is executed, Franchisee shall proceed to negotiate a Lease or purchase agreement for the site and shall submit to Franchisor a copy of the proposed Lease or purchase agreement, as applicable, to Franchisor. Franchisee shall not enter into any Lease or purchase agreement for the Location unless Franchisor has accepted the proposed site and such site shall then be deemed to be the "Location" as defined above. Franchisee shall begin operating the Licensed Restaurant within 18 months after the Effective Date. Unless waived by Franchisor in whole or in part, upon submitting a second Site Review Request to Franchisor for review provided that the lease for the Location has been successfully executed, and for each Site Review Request thereafter, Franchisee shall reimburse Franchisor for all costs and expenses of Franchisor incurred in reviewing the Site Review Requests, including travel and accommodation costs and payments to consultants and agents retained by Franchisor to assist in conducting such review and including a reasonable allocation of overhead and administrative expenses.

5.1.2 Franchisee may not conduct any activities associated with Franchisor or the Marks at any location except for operating the Licensed Restaurant in accordance with this Agreement, or other agreement with Franchisor.

5.1.3 Franchisee may not relocate the Licensed Restaurant without Franchisor's prior written consent. If Franchisor shall consent to any relocation, Franchisee shall de-identify the former location in the manner described in Section 15.1.1 of this Agreement with respect to Franchisee's obligations upon termination and expiration and shall reimburse and indemnify and hold Franchisor harmless from any direct and indirect losses, costs and expenses, including legal fees, arising out of Franchisee's failure to do so.

5.2 Franchisor Site Selection Assistance. Franchisor may voluntarily (without obligation) assist Franchisee in obtaining an acceptable location. Franchisor's acceptance of a location is solely an indication that the Location meets Franchisor's minimum standards and specifications at the time of acceptance, and such acceptance shall not be construed as any express or implied representation or warranty that the Location will be profitable or successful. Franchisee acknowledges its sole responsibility for finding the Location. Franchisee acknowledges its sole responsibility for finding each site for the Restaurant it develops pursuant to this Agreement.

5.3 Lease or Purchase of Location.

5.3.1 If the Location is leased or subleased, (i) the Lease shall name Franchisee as the sole lessee thereunder and may not be assigned or sublet without Franchisor's prior written consent, said consent shall not be unreasonably withheld or conditioned; (ii) Franchisor shall have the right to review and accept or reject the Lease, a true and correct copy of which shall be delivered to Franchisor at least 15 days prior to the execution thereof; (iii) Franchisee shall neither create nor purport to create any obligations on behalf of Franchisor, nor grant

or purport to grant to the landlord thereunder any rights against Franchisor, nor agree to any other term, condition, or covenant which is inconsistent with any provision of this Agreement; (iv) the Lease shall be for a term (including options) which is not less than the Term of this Agreement (plus each Renewal ~~Successor~~ Term), unless Franchisor shall approve, in writing, a shorter term of the Lease; (v) the Lease shall not contain a non-competition covenant which purports to restrict the Franchisor, or any franchisee or licensee of the Franchisor (or its Affiliates), from operating a Licensed Restaurant or any other retail establishment, unless such covenant is approved by the Franchisor in writing prior to the execution of the Lease; (vi) Franchisee shall duly and timely perform all of the terms, conditions, covenants and obligations imposed upon Franchisee under the Lease; and (vii) a fully executed copy of said Lease, in the form and on the terms previously accepted by Franchisor, shall be delivered to Franchisor promptly following the execution thereof and upon Franchisor's request.

5.3.2 Franchisee and Franchisee's landlord may be required to execute an addendum to the Lease or other agreement or written understanding that (i) grants Franchisor an option to assume Franchisee's position as lessee under the lease for the Location if Franchisee is in material default of either (A) the lease for the Location (including an obligation of the landlord to notify Franchisor if Franchisee is in such default), or (B) this Agreement, and (ii) requires the landlord to fully cooperate with Franchisor in completing de-identification of the Licensed Restaurant in the event this Agreement is terminated or expires without being renewed. Franchisor's review and acceptance of the Lease is solely for Franchisor's benefit and is solely an indication that the Lease meets Franchisor's minimum standards and specifications at the time of acceptance for the Lease (which may be different than the requirements of this Agreement). Such review and acceptance shall not be construed as any express or implied representation or warranty that the Lease complies with Applicable Law or represents a lease transaction that is fair or in Franchisee's best interest.

5.3.3 If Franchisor or its designee elects to succeed to Franchisee's rights under the Lease, as aforesaid, Franchisee shall assign to Franchisor or such designee all of its right, title, interest and obligations in, under and to the Lease, whereupon the landlord thereunder shall attorn to Franchisor or such designee as the tenant thereunder. Franchisee shall execute and deliver to Franchisor or such designee such assignment and take such further action as Franchisor or such designee, as applicable, in its sole and absolute discretion, may deem necessary or advisable to formalize and implement such assignment, within 10 days after written demand by Franchisor or such designee to do so, and upon Franchisee's failure to do so, Franchisor or such designee shall be, and hereby is, appointed Franchisee's attorney in fact to do so. This power of attorney granted by Franchisee to Franchisor and such designee is a special power of attorney coupled with an interest and is irrevocable and shall survive the death or disability of Franchisee. Any sum expended by Franchisor or such designee to cure Franchisee's breach of the Lease shall be deemed additional sums due Franchisor hereunder and Franchisee shall pay such amount to Franchisor upon demand. The covenants of Franchisee contained in this Section 5.3 shall survive the termination, expiration or transfer of this Agreement. Franchisor's acceptance of the Lease shall not constitute Franchisor's assurance that the terms of the Lease are favorable to Franchisee, or that the location will be successful.

5.3.4 Franchisee hereby authorizes Franchisor to communicate with the landlord under the Lease (and hereby authorizes such landlord to communicate with Franchisor) for any purpose, including de-identification of the Location following the termination, expiration or transfer of this Agreement, Franchisee's sales, Franchisee's defaults under this Agreement or the Lease and negotiating a lease for the Location commencing following the termination, expiration or transfer of the Franchisee's Lease. Franchisee shall at all times fully perform each and all of its obligations under the Lease.

5.3.5 If the Location is to be purchased by Franchisee, the contract for purchase and sale shall be subject to Franchisor's review and acceptance (which will not be unreasonably withheld). A true and correct copy of the contract shall be delivered to Franchisor at least 15 days prior to the execution thereof, and a true and correct copy of such executed contract shall be furnished to Franchisor within 15 days after execution.

#### 5.4 Construction.

5.4.1 Following the Effective Date and before the renovation or construction of the Licensed Restaurant or the Location, Franchisor shall provide Franchisee with copies of Franchisor's specifications for the design and layout of the Licensed Restaurant and required fixtures, equipment, furnishings, decor, trade dress, and signs. The Licensed Restaurant must be constructed, equipped and improved by Franchisee at its sole cost and expense in compliance with Franchisor's current design criteria (including the Gyu-Kaku Restaurant Prototype program) in the design and build out of the Licensed Restaurant. Franchisor will coordinate and manage (i) all design development to be provided by designated consulting architects, and (ii) grease duct design, lighting

design, interior design and audio and surveillance system design to be provided by a vendor Franchisor has pre-approved. Franchisee must use the Gyu-Kaku Design team throughout the Design Development phase, and before Franchisee requests a building permit from Franchisee's city (or other government agency), Franchisee must obtain Franchisor's review and consent to Franchisee's final plans. Details of the Gyu-Kaku Restaurant Prototype program are contained in the Manual or will otherwise be provided to Franchisee in writing. Franchisee may employ reputable licensed architects, engineers and general contractors of its own selection, and at its sole cost and expense, to prepare such architectural, engineering and construction drawings and site plans, and to obtain all Permits required to construct, remodel, renovate, and/or equip the Licensed Restaurant and Premises, but only if these architects, engineers and general contractors have been reviewed, qualified and approved by the Gyu-Kaku Development Department. Franchisor will facilitate the bidding (or Request For Proposal) process for your project by coordinating with the architect, compiling all required bidding documents, soliciting three approved experienced national general contractors and a selection of other approved vendors to provide estimates on Franchisee's project. Franchisor will then work with Franchisee to select the best qualified and cost-effective contractors and vendors for Franchisee's project. Franchisor will assist Franchisee by providing standard construction contracts, vendor agreements and related documents for review by Franchisee's attorney or other professional advisors. Franchisor will assist with managing the construction process with scheduling, requests for information (RFI) and change order review and response, weekly reporting and quality control. However, these services Franchisor provides to Franchisee in the development process of the Licensed Restaurant are not to be considered a guarantee by Franchisor of the services provided by others nor does Franchisor accept any liability for costs or any other obligations or liabilities relating to your project. All plans and modifications to the Location must be submitted to Franchisor for Franchisor's review and acceptance before Franchisee starts construction, Franchisee may not deviate from Gyu-Kaku design developed by Franchisor, and any change or deviation from Gyu-Kaku construction documents must be approved by Franchisor before execution. Unless Franchisor notifies Franchisee in writing that the plans and modifications are accepted, they will be deemed rejected. Franchisor may require Franchisee to engage, at Franchisee's sole cost, a designated or recommended construction consultant. All such plans, and modifications and revisions thereto, shall be submitted to Franchisor for its prior review and acceptance before Franchisee's commencement of construction (within 180 days after the Effective Date, unless Franchisor otherwise agrees in writing). Franchisor shall promptly provide any comments to the architectural plans submitted to Franchisor. If Franchisor shall not deliver written notice to Franchisee that Franchisor accepts such design criteria, the design criteria shall be deemed rejected.

5.4.2 Franchisor has the right, but not the obligation, to perform inspections of the Licensed Restaurant and Premises during construction and after construction to ensure that the Licensed Restaurant is built in accordance with the drawings and specifications approved by Franchisor, and all fixtures, signs, furnishings and equipment comply with Franchisor's standards and specifications. Franchisee may not open the Licensed Restaurant for business until Franchisee has received written authorization to open from Franchisor, which authorization may be conditional and subject to Franchisor's reasonable satisfactory inspection of the Licensed Restaurant.

5.4.3 Franchisee may periodically request additional information regarding the design and construction of the Licensed Restaurant, which, if in the possession of Franchisor, shall be provided at no expense to Franchisee. Upon request, Franchisor shall provide additional site visits, project management, design work and equipment purchasing services to Franchisee at Franchisee's sole cost.

5.4.4 Subject only to Force Majeure (provided that Franchisee continuously complies with Section 5.4.6 of this Agreement), Franchisee shall complete construction or renovation, as the case may be, of the Premises, the Licensed Restaurant and all improvements therein, including installation of all fixtures, signs, equipment and furnishings as soon as possible, but in any event within nine months after commencement of construction, unless Franchisor consents in writing to a longer period of time. The operation of the Licensed Restaurant by Franchisee shall commence not later than 18 months following the Effective Date.

5.4.5 The time periods for the commencement and completion of construction and the installation of fixtures, signs, machinery and equipment as referred to in this Section 5.4 are of the essence of this Agreement. If Franchisee fails to perform its obligations contained in this Section, the Franchisor may, without limiting the materiality of any other breach and default of this Agreement, deem the Franchisee's failure to ~~se~~ perform its obligations to constitute a material default of this Agreement.

5.4.6 In the event of the occurrence of an event which Franchisee claims to constitute Force Majeure, Franchisee shall provide written notice to Franchisor in writing within five business days following commencement of the alleged Force Majeure which notice shall include the words "Force Majeure" and explicitly

describe the specific nature and extent of the Force Majeure, and how it has impacted Franchisee's performance hereunder. Franchisee shall provide Franchisor with continuous updates (no less frequently than once each week) on Franchisee's progress and diligence in responding to and overcoming the Force Majeure and shall notify Franchisor immediately upon cessation of such Force Majeure and provide all other information as may be requested by Franchisor. If Franchisee shall fail to notify Franchisor of any alleged Force Majeure within said five business days or shall fail to provide any such updates during the continuance of the alleged Force Majeure, Franchisee shall be deemed to have waived the right to claim such Force Majeure.

5.4.7 Franchisor's acceptance of Franchisee's plans and specifications for the Location, Franchisor's guidance with the development of the Location, and Franchisor's authorization to open the Licensed Restaurant are to assure that Franchisee complies with Franchisor's standards and specifications, and shall not be construed as any express or implied representation or warranty that the Location complies with any applicable laws, codes or regulations or that the construction is sound or free from defects. Franchisor's criteria for acceptance or rejection do not encompass technical, architectural or engineering considerations. Franchisor will have no liability with respect to construction of the Location, nor shall Franchisor be responsible in any way for delays or losses occurring during the design, construction or other preparation of the Licensed Restaurant, whether caused by the condition of the Location, the design, engineering, construction, equipping, decorating, or stocking of the Licensed Restaurant, or any other reason.

## 5.5 Maintaining and Remodeling of Licensed Restaurant.

5.5.1 Franchisee shall maintain the condition and appearance of the Licensed Restaurant in a level of cosmetic appearance consistent with the image of Restaurants as attractive, clean, and efficiently operated, offering quality food products and beverages, efficient and courteous service, and pleasant ambiance. Franchisee must always ensure that each customer barbeque table the roaster's heat element temperature is maintained at 1150°F and the table exhaust suction is maintained at 12 MPH. If at any time in the Franchisor's reasonable judgment, the state of repair, appearance or cleanliness of the Franchisee's Premises (including the Licensed Restaurant and the non-Restaurant portion of Franchisee's Premises) or its fixtures, equipment, furnishings, signs or utensils fail to meet the Franchisor's standards therefor, Franchisee shall immediately upon receipt of notice from Franchisor specifying the action to be taken by Franchisee (within the time period specified by Franchisor), correct such deficiency, repair and refurbish the Licensed Restaurant and Premises, as applicable, and make such modifications and additions to its layout, decor and general theme, as may be required, including replacement of worn out or obsolete fixtures, equipment, furniture, signs and utensils, and repair and repainting of the interior and exterior of the Licensed Restaurant, the Premises and appurtenant parking areas (if any). Such maintenance shall not be deemed to constitute remodeling, as set forth below, unless the cost for such maintenance exceeds \$5,000 in which event the maintenance shall be deemed to constitute remodeling, as set forth below.

5.5.2 In addition to Franchisee's obligations under Section 5.5.1, anytime during the Term after the fifth anniversary of the Effective Date, but not more frequently than once during the Term or as a condition to Franchisee's exercising its ~~Renewal Successor~~ Franchise Right, Franchisor may require Franchisee, at Franchisee's sole cost and expense, to refurbish, remodel and improve the Licensed Restaurant to conform the Franchisee's building design, trade dress, color schemes, and presentation of Marks to Franchisor's then current public image (or image implemented or in development at a ~~Gyu-Kaku R~~ restaurant owned or operated by Franchisor or any of its Affiliates). Such a remodeling may include extensive changes to the Licensed Restaurant and replacement or modification of furnishings, fixtures and equipment as well as such other changes as the Franchisor may direct, and Franchisee shall undertake such a program promptly upon notice from the Franchisor and shall complete any such remodeling as expeditiously as possible, but in any event within 90 days of commencing same (and no later than the commencement of the applicable ~~Renewal Successor~~ Term). In the event that the total cost of the remodeling is reasonably expected to exceed \$50,000 (and does exceed \$50,000), Franchisee shall have six months from commencement to complete such remodeling. Franchisor may, on one or more occasions, waive or defer for such period of time as Franchisor may deem appropriate, Franchisee's obligation to remodel the Licensed Restaurant, if Franchisor determines in its reasonable judgment that the Licensed Restaurant is, on the date scheduled for commencement of such remodel, in substantial conformity with Franchisor's then current standard system decor specifications. If the total cost of the remodeling is reasonably expected to exceed \$50,000 and is to be commenced within the two years immediately prior to the expiration of the Term and Franchisee notifies Franchisor that Franchisee does not intend to exercise the ~~Renewal Successor~~ Franchise Right, and relinquishes such right, in writing, then at Franchisee's request (which request shall be made prior to the commencement of the subject remodeling, renovation or modernization, and no later than 30 days before the end of the Term), Franchisor will either (i) extend the Term for a period of exactly two years (if the

landlord at the Licensed Restaurant agrees to such an extension of the applicable lease), or (ii) waive Franchisee's obligation to remodel.

5.5.3 If the Licensed Restaurant is damaged or destroyed by fire or any other casualty, Franchisee, within 90 days thereof (unless the insurer responsible for payment requires additional time to process the claim and authorize the initiation of repairs), shall initiate such repairs or reconstruction, and thereafter in good faith and with due diligence continue (until completion) such repairs or reconstruction, in order to restore the premises of the Licensed Restaurant to its original condition prior to such casualty; any such repair and reconstruction shall be completed as soon as reasonably practicable but in any event within six months following the event causing the damage or destruction. If, in the Franchisor's reasonable judgment, the damage or destruction is of such a nature or to such extent that it is feasible for Franchisee to repair or reconstruct the Location and the Licensed Restaurant in conformance with Franchisor's then standard System decor specifications for new Restaurants, the Franchisor may require that Franchisee repair or reconstruct the Premises and Licensed Restaurant operated pursuant hereto in conformance with the then standard System decor specifications.

5.6 Market Introduction Advertising. Unless Franchisor otherwise agrees in writing, Franchisee shall, in addition to the advertising and promotion required by Article 8 of this Agreement, expend a reasonable amount that both parties agree is appropriate to conduct a market introduction advertising promotion in accordance with the Manuals and with Franchisor's prior written approval as to form, method and content (the "Market Introduction Program") for the Licensed Restaurant which shall be implemented during the one month prior, and the four months following, the opening of the Licensed Restaurant to the public. Franchisee's expenditures in connection with the Market Introduction Program are in addition to other advertising and marketing requirements under Section 8.1. The Market Introduction Program:

5.6.1 Will utilize marketing and public relations programs and media and advertising materials supplied and/or approved by Franchisor; and

5.6.2 Will be conducted in accordance with Franchisor's specifications and standards and in accordance with a market introduction advertising plan which Franchisee prepares and submits to Franchisor's for approval at least 60 days prior to the Opening Date. Franchisor hereby reserves the right to reject all or part of such plan and Franchisee shall revise such plan in response thereto.

## **ARTICLE 6 TRAINING**

### **6.1 Initial Training Program.**

6.1.1 At no additional charge, Franchisor shall provide an Initial Training Program in the Franchisor's System and methods of operation (the "Initial Training Program") at the Franchisor's training facilities in Los Angeles, California or other location specified by Franchisor, to up to four persons selected by Franchisee who shall include the Operating Principal and Restaurant Manager(s) of the Licensed Restaurant. If in Franchisor's opinion there is additional capacity at the commencement of (and throughout) the Initial Training Program being attended by Franchisee's initial trainees (up to four individuals), Franchisor will permit additional personnel of Franchisee to attend the Initial Training Program without requiring Franchisee to pay an additional fee to have such individuals attend the Initial Training Program. If Franchisee is an Entity, the Operating Principal shall be an Owner, officer or other designated representative selected by Franchisee and acceptable to and approved by Franchisor. The Initial Training Program shall consist of approximately five weeks of training for the Operating Principal and shall consist of approximately four weeks of training for the Restaurant Manager(s). However, the Initial Training Program may be extended by Franchisor in its reasonable discretion if necessary for satisfactory completion. The Initial Training Program shall be provided by Franchisor prior to the opening of the Licensed Restaurant and must be satisfactorily completed by Franchisee before the Licensed Restaurant opens to the public. If an attendee sent by Franchisee is in Franchisor's reasonable determination incapable of being trained or incapacitated, Franchisor may require the attendee to leave the Initial Training Program until such time, if any, that Franchisor deems the attendee capable of rejoining the Initial Training Program (and in such circumstances, Franchisor will not be liable for wages or other expenses of such attendees removed from training). Franchisee shall pay all travel, living, compensation, and other expenses, if any, incurred by Franchisee or Franchisee's employees in connection with attendance at training programs. Franchisee may not open the Licensed Restaurant until such training shall have been completed to the satisfaction of Franchisor and Franchisee's management

team has been certified by Franchisor. All personnel attending training must have first successfully completed the ServSafe program.

6.1.2 Franchisor shall determine the contents and manner of conducting the Initial Training Program in its discretion; however, the training course will be structured to provide practical training in the implementation and operation of a Licensed Restaurant and may include such topics as on-site food preparation, portion control, preparation and cooking procedures, packaging procedures, Franchisor's standards, marketing and customer service techniques, reports and equipment maintenance.

6.1.3 The Initial Training Program shall not be provided if (i) Franchisee or any Affiliate of Franchisee owns or operates a Licensed Restaurant as of the Effective Date, or (ii) this Agreement is executed as a Renewal Successor Franchise Agreement.

6.1.4 Franchisee acknowledges that because of Franchisor's superior skill and knowledge with respect to the training and skill required to manage the Licensed Restaurant, its judgment as to whether or not the Franchisee or his manager has satisfactorily completed such training shall be determined by Franchisor in its judgment.

6.2 On-Site Training. Commencing shortly before and ending shortly after the Licensed Restaurant opens to the public, Franchisor shall, at no additional charge, provide up to 10 days of on-site training to Franchisee's Operating Principal and Restaurant Manager(s), but Franchisee must reimburse Franchisor for its reasonable out of pocket (including, Franchisor's transportation costs, food, lodging and similar costs incurred in connection with such training) expenses ("On-Site Training"). The On-Site Training shall be provided at Franchisor's sole discretion and control; however, the training will be structured to provide additional practical training in the implementation and operation of a Licensed Restaurant.

### 6.3 Additional Training.

6.3.1 All newly hired and replacement Operating Principal(s) and Restaurant Manager(s) of the Licensed Restaurant shall be subject to Franchisor's reasonable approval and shall successfully complete, to Franchisor's satisfaction, the Initial Training Program conducted by Franchisor and, if required, be certified by Franchisor for the position designated by Franchisee. Notwithstanding the first sentence of this Section, the Restaurant Managers of Franchisee shall have the skill level, training and experience commensurate with the demands of the position, and in keeping with Franchisor's high standards for quality products, courteous service, and cleanliness of operations. A fully trained Restaurant Manager or assistant manager shall, to Franchisor's satisfaction, train each of Franchisee's regular employees prior to the first opening of the Licensed Restaurant to the public and at all times thereafter during the Term. At all times during the Term, Franchisee shall employ an adequate staff of employees working at the Licensed Restaurant who shall have been fully and adequately trained, in Franchisor's judgment, and all such employees shall have completed all training certification(s) required by any Governmental Authority.

6.3.2 Franchisee shall pay Franchisor's then current, reasonable charges (as set forth in the Manuals) for any such training performed by Franchisor at Franchisee's request, or which is otherwise required hereunder and not covered by Section 6.1.1 of this Agreement.

6.3.3 Franchisee must use Franchisor's Gyu-Kaku Training Manual to train and instruct its personnel in Licensed Restaurant operations and procedures, as applicable.

6.3.4 Franchisor may, from time to time, (i) require Franchisee, its Operating Principal and each Restaurant Manager, or any of them, to attend quarterly conferences with Franchisor's representatives to discuss marketing, sales, operations and other matters pertinent to the Franchised Business, and other additional training courses or programs (collectively, "Additional Training") during the Term; or (ii) make available to Franchisee, its Operating Principal and each Restaurant Manager, or any of them, optional Additional Training during the Term. Additional Training may be held on a national or regional basis at locations selected by Franchisor to instruct Franchisee with regard to new procedures or programs which Franchisor deems, in its judgment, to be of material importance to the operation of the Licensed Restaurant. Such Additional Training may relate, by way of illustration, to product production techniques, new recipes, marketing, bookkeeping, accounting and general operating procedures, and the establishment, development and improvement of computer systems. Franchisor may establish reasonable charges applicable to all franchisees similarly situated for such optional training courses. The time and place of such training courses shall be at Franchisor's discretion. In addition to any charge

Franchisor may establish, Franchisee shall pay all transportation costs, food, lodging and similar costs incurred in connection with attendance at such courses. Franchisor shall pay no compensation to trainees for any services performed by them in connection with the Additional Training.

6.3.5 Designated representatives of Franchisor shall have the right upon not less than seven days prior notice to enter the Licensed Restaurant to conduct training programs for franchisees (and prospective franchisees) of Franchisor, from time to time and at a time and in a manner consistent with Franchisor's reasonably established policies and procedures in effect from time to time.

6.4 Employee Certification Program. Franchisor may, at its option and in its discretion, provide an employee certification program and re-certification program (the "Employee Certification Program") to each employee of Franchisee or certain categories of management or senior staff at the Licensed Restaurant. The Employee Certification Program will consist of a one or more proficiency exams designed to test and evaluate an employee's initial and/or continuing ability to carry-out employment duties and responsibilities. Franchisor may prohibit Franchisee from allowing an employee of Franchisee from offering any services at or in connection with the Licensed Restaurant until he or she has successfully completed the Employee Certification Program (including any re-certification program established by Franchisor) to Franchisor's satisfaction and passed the proficiency examination established by Franchisor.

#### 6.5 Other Assistance.

6.5.1 Franchisee shall have the right, at no additional charge, to inquire of Franchisor's headquarters staff, its field representatives and training staff with respect to problems relating to the operation of the Licensed Restaurant, by telephone, electronic mail, facsimile, or other means of correspondence, and Franchisor shall use its best efforts to diligently respond to such inquiries, in order to assist Franchisee in the operation of the Licensed Restaurant. At no time shall reasonable assistance be interpreted to require Franchisor to pay any money to Franchisee or to defer Franchisees' obligation to pay any sums to Franchisor.

6.5.2 Franchisor may but shall not be obligated to (i) cause its field representatives to visit the Licensed Restaurant to advise, consult with, or train Franchisee in connection with its performance and operation of the Licensed Restaurant and Franchisee's compliance with the Manuals; or (ii) permit Franchisee or certain of its employees to assist, consult, or provide additional training at another Licensed Restaurant selected by Franchisor. If Franchisor provides such additional assistance, consultation or training to Franchisee (w) such assistance, consultation or training will be subject to Franchisor's capacity, scheduling, and discretion, but Franchisor shall not be obligated to provide that assistance, consultation or training, (x) Franchisee shall pay all travel, living, compensation, and other expenses, if any, incurred by Franchisee and/or Franchisee's employees in connection with such additional assistance, consultation, or training, (y) Franchisor shall not pay any compensation to Franchisee or Franchisee's employees for providing services at Franchisor's or another Franchisee's Restaurant in connection with the assistance, consultation, or training, and (z) Franchisee shall reimburse Franchisor for all reasonable transportation costs, food, lodging and similar costs incurred by Franchisor and its personnel in connection with such training. Franchisor will exercise its reasonable discretion whether any such visits are necessary.

6.5.3 In the event of any sale transfer, or Assignment, the transferee/assignee must be trained by Franchisor as a condition of Franchisor's consent to such transfer. The Licensed Restaurant shall not be transferred, opened, or re-opened by the transferee until Franchisor accepts the transferee in writing as being certified to operate the Licensed Restaurant and Franchisor has otherwise consented to the transfer in accordance with this Agreement.

## **ARTICLE 7 MANUALS AND STANDARDS OF OPERATOR QUALITY, CLEANLINESS AND SERVICE**

7.1 Compliance with Applicable Law. Franchisee shall operate the Licensed Restaurant as a clean, orderly, legal and respectable place of business in accordance with Franchisor's business standards and merchandising policies and shall comply with all Applicable Laws. Franchisee shall not cause or allow any part of its Location or Premises to be used for any immoral or illegal purpose. Franchisee shall in all dealings with its customers, suppliers, and public officials adhere to high standards of honesty, integrity, fair dealing and ethical conduct and refrain from engaging in any action (or failing to take any action) which will cause Franchisor to be in violation of any Applicable Law. Franchisee shall refrain from engaging in action (or failing to take any action),

which in the sole opinion of Franchisor, causes or could cause harm to the Marks, the System and/or the “GYU-KAKU” brand. If Franchisee shall receive any notice, report, fine, test results or the like from the applicable state or local department of health (or other similar Governmental Authority), Franchisee shall promptly send a copy of the same to Franchisor. Franchisee shall correct any such deficiency noted within 10 days or such fewer number of days as required by the applicable Governmental Authority.

## 7.2 Operating Principal and Management Employees.

7.2.1 The Operating Principal shall be principally responsible for communicating and coordinating with Franchisor regarding business, operational and other ongoing matters concerning this Agreement and the Licensed Restaurant. The Operating Principal shall have the full authority to act on behalf of Franchisee in regard to performing, administering or amending this Agreement. The Operating Principal shall be vested with the authority and responsibility for the day-to-day operations of the Licensed Restaurant and all other Restaurants owned or operated, directly or indirectly, by Franchisee or its Affiliates within a geographic area specified by Franchisor. The Operating Principal shall, during the entire period he or she serves as such, meet the following qualifications: (i) shall devote full time and best efforts solely to operation of all Restaurants owned or operated, directly or indirectly, by Franchisee or its Affiliates in such geographic area and to no other business activities until such time as designated general managers reasonably acceptable to Franchisor assume such duties on a full-time basis; (ii) meet Franchisor’s educational, experience, financial and other reasonable criteria for such position, as set forth in the Manuals or otherwise in writing by Franchisor; and (iii) be an individual acceptable to Franchisor. The Operating Principal shall be responsible for all actions necessary to ensure that all Restaurants owned or operated, directly or indirectly, by Franchisee in such geographic area are operated in compliance with this Agreement and the Manuals. If during the Term the Operating Principal is not able to continue to serve in such capacity or no longer qualifies to act as such in accordance with this Section (including Franchisor’s subsequent disapproval of such person), Franchisee shall promptly notify Franchisor of such occurrence. Thereafter, Franchisee shall promptly, but not later than 30 days after the prior Operating Principal ceases to serve Franchisee, (w) designate a replacement operating principal who meets Franchisor’s then-current qualification requirements, (x) provide Franchisor with such information about such new Operating Principal as Franchisor may request, (y) cause such replacement Operating Principal to undergo, at Franchisee’s cost, such training as Franchisor may require, and (z) obtain Franchisor’s written acceptance of such person as the Operating Principal. Franchisor may, but is not required to, deal exclusively with the Operating Principal in such regards unless and until Franchisor’s actual receipt of written notice from Franchisee of the appointment of a successor Operating Principal who shall have been accepted by Franchisor.

7.2.2 Franchisee shall ~~notify~~provide Franchisor in writing and in reasonable detail at least 10 days prior to employing the Operating Principal ~~setting forth in reasonable detail with~~ all information reasonably requested by Franchisor. Franchisor’s acceptance of the Operating Principal shall not constitute Franchisor’s endorsement of such individual, nor shall Franchisor be estopped from subsequently disapproving or otherwise challenging such person’s qualifications or performance.

7.2.3 Franchisee shall ensure that the operation of the Licensed Restaurant is at all times under the direct control of a Restaurant Manager or Restaurant Managers trained by Franchisor in accordance with Article 6 of this Agreement. At all times that the Licensed Restaurant is open and at all times which pre-opening or post-closing activities are being undertaken at the Licensed Restaurant, the Licensed Restaurant shall be managed by a person that has successfully completed training (and if required, a person that is Certified for the performance of such responsibilities) and has successfully completed the ServSafe course and such other courses and training as may be specified by Franchisor and/or required by Applicable Law. Each Restaurant Manager shall be solely dedicated to the operation of the Licensed Restaurant to which the person is assigned.

7.2.4 Franchisee must participate in the Restaurant Manager Incentive Program, which program provides quarterly incentive payments to Restaurant Managers for achieving (i) seven separate primary incentive goals (that can result in compensation of up to \$8,000 if all seven primary goals are realized) and (ii) then, if the primary incentive goals are met, for placing 1st, 2nd or 3rd among Restaurant Managers in four additional secondary incentive categories (that can result in additional compensation from \$200 for a single 3rd place finish up to \$2,500 for achieving all four 1st place goals). The details of the Restaurant Manager Incentive Program are contained in the franchise unit operation manual.

7.4.1 The subject matter of the Manuals may include matters such as: forms, information relating to product and menu specifications, purchase orders, general operations, labor management, Gross Sales reports, training and accounting; sanitation; staff certification, employee grooming standards, nametags and uniforms; display of signs and notices; authorized and required equipment and fixtures, including specifications therefor; Mark usage; insurance requirements; lease requirements; ownership requirements, decor; standards for management and personnel, hours of operation; telephone directory and local advertising formats; standards of maintenance and appearance of the Licensed Restaurant; procedures upon the occurrence of a Crisis Management Event; and required posting of notices to customers as to how to contact the Franchisor to submit complaints and feedback; participation in surveys and mystery shopper programs; and such other matters and policies as Franchisor may reasonably elect to include which relate to the System or the franchise relationship under the System. In the event of the occurrence of a Crisis Management Event, Franchisor may also establish emergency procedures pursuant to which Franchisor may require Franchisee to, among other things, temporarily close the Licensed Restaurant to the public, in which event Franchisor shall not be liable to Franchisee for any losses or costs, including consequential damages or loss profits occasioned thereby. In the event of any dispute as to the contents of the Manuals, the terms and contents of the master copy maintained by Franchisor shall be the definitive text.

7.4.2 Franchisor shall have the right to modify the Manuals at any time, provided that no such modification shall alter Franchisee's fundamental status and rights under this Agreement. Modifications in the Manuals shall become effective upon delivery of written or electronic notice thereof to Franchisee unless a longer period is specified in such written notice or unless a longer period is set forth in this Agreement. The Manuals, as modified from time to time, shall be an integral part of this Agreement and reference made in this Agreement, or in any amendments, exhibits or schedules hereto, to the Manuals shall be deemed to mean the Manuals kept current by amendments from time to time.

7.4.3 Upon the execution of this Agreement, Franchisor shall furnish to Franchisee one copy of the Manuals, unless Franchisee purchased the Licensed Restaurant from an existing franchisee or Franchisee has executed this Agreement as a ~~Renewal Successor~~ Franchise Agreement. The Manuals and all amendments to the Manuals (and copies thereof) are copyrighted and remain Franchisor's property. They are loaned to Franchisee for the term of the Agreement and must be returned to Franchisor immediately upon this Agreement's termination or expiration. The Manuals are highly confidential documents which contain certain Trade Secrets of Franchisor. Franchisee shall not make, or cause or allow to be made, any copies, reproductions or excerpts of all or any portion of the Manuals without Franchisor's express prior written consent. Upon the expiration or termination of this Agreement for any reason whatsoever, Franchisee shall immediately return the Manuals to Franchisor. Franchisee's loss or unauthorized transfer of the Manuals or other breach of this Section shall, without limiting the materiality of any other default of this Agreement, constitute a material default of this Agreement.

7.5 Hours. Subject to Applicable Law, operating hours published by the owner of business premises upon which the Licensed Restaurant is located, or subsequent written agreement between Franchisor and Franchisee to the contrary, Franchisor and Franchisee agree that the Licensed Restaurant shall be open and operational seven days per week, every day of the year (except the holidays stated in the Manuals on which Franchisee is authorized to close the Licensed Restaurant), and at least during the hours established by Franchisor in the Manuals. Franchisee shall diligently and efficiently exercise reasonable efforts to achieve the maximum Gross Sales possible from its Location and shall remain open for longer hours if additional opening hours are reasonably required to maximize operations and sales. Notwithstanding the foregoing, in Franchisor's discretion, Franchisor may restrict the hours that new Licensed Restaurants may be open (for example, during dinner hours only); and may authorize or direct Franchisee and other franchisees to operate Licensed Restaurants during other hours and on fewer or more days than are specified in the Manuals and this Agreement.

7.6 Product Line and Service. Franchisee shall advertise, sell and serve all and only those Authorized Gyu-Kaku Products which Franchisor has directed to be advertised, sold and served at or from the Licensed Restaurant. All Authorized Gyu-Kaku Products shall be sold and distributed under the specific name designated by Franchisor and shall be purchased, inventoried, stored, prepared and served strictly in accordance with Franchisor's recipes and specifications. Franchisee shall not remove any Authorized Gyu-Kaku Product from the Franchisee's menu without Franchisor's express written approval, nor may Franchisee take any action which is intended to diminish the maximum sales potential of any of the Authorized Gyu-Kaku Products. Franchisee must participate in all required activities to be provided at the Licensed Restaurant (including birthday celebrations) in the manner authorized by Franchisor in the Manuals or otherwise in writing. Except as specifically authorized by Franchisor in the Manuals or otherwise in writing, Franchisee shall not sell any Authorized Gyu-Kaku Products outside of the Licensed Restaurant or to any customer for the purpose of catering, "take out," or resale by the

customer. All sales by Franchisee shall be for retail consumption only at the Licensed Restaurant; provided however that (i) retail customers may take with them away from the Location uneaten portions of their meals and (ii) using designated food delivery services specifically identified by Franchisor and strictly according to applicable terms and conditions stated in the Manuals, Franchisee may deliver pre-ordered Authorized Gyu-Kaku Products to retail customers for consumption away from the Licensed Restaurant.

7.7 Utensils, Fixtures and Other Goods. All tableware, flatware, utensils, glasses, menus and other things used in operating the Licensed Restaurant shall conform to Franchisor's specifications, shall be imprinted with the Marks, if and as specified by Franchisor, and shall be purchased by Franchisee from a distributor or manufacturer approved in writing by Franchisor, as provided in Article 9 of this Agreement, which approval will not be unreasonably withheld. No item of merchandise, furnishings, interior and exterior decor items, supplies, fixtures, equipment or utensils shall be used in or upon any Restaurant unless the same shall have been first submitted to and approved in writing by Franchisor.

#### 7.8 Menus.

7.8.1 Authorized Gyu-Kaku Products shall be marketed by approved menu formats to be utilized in the Licensed Restaurant. The approved and authorized menu and menu format(s) may include, in Franchisor's discretion, requirements concerning organization, graphics, product descriptions, illustrations, and any other matters related to the menu, whether or not similar to those listed. In Franchisor's discretion, the menu and/or menu format(s) may vary depending upon region, market size, and other factors. Franchisor may change the menu and/or menu format(s) from time to time or region to region or authorize tests from region to region or authorize non-uniform regions or Licensed Restaurants within regions. Franchisee shall have 10 days to implement all such changes to the menu. To protect and maintain the integrity, reputation and goodwill of the System and the Marks, Franchisor requires that Franchisee complies with the methodology Franchisor prescribes in providing Authorized Gyu-Kaku Products to customers. Franchisor may (i) recommend prices for Authorized Gyu-Kaku Products, (ii) recommend different menu pricing groups from which Franchisee can choose, (iii) to the extent permitted by federal and state law applicable to the Licensed Restaurant, set maximum or minimum retail prices for Gyu-Kaku Products and other menu items, and (iv) restrict Franchisee's advertising of prices that are inconsistent with Franchisor's recommended prices.

7.8.2 Franchisee shall, upon receipt of notice from Franchisor, add, delete, or update any Authorized Gyu-Kaku Products to its menu according to the instructions contained in the notice. Franchisee shall have 10 days after receipt of written notice in which to fully implement any such change. Franchisee shall cease selling any previously approved product within 10 days after receipt of notice that the product is no longer approved. Franchisor may instruct Franchisee to remove any item from the menu on an emergency basis and Franchisee must comply with such instruction immediately. Franchisor shall not be liable to Franchisee for any losses sustained by Franchisee in connection with such instruction (or Franchisee's failure to comply with such instruction).

7.8.3 The ingredients, composition, specifications, and preparation of all food products sold by Franchisee shall strictly comply with the methods, standards and specifications, instructions and other requirements communicated by Franchisor or contained in the Manuals and as Franchisor may otherwise prescribe in writing from time to time. Under no circumstances may Franchisee modify the ingredients, composition, specifications, and preparation techniques of food products sold by Franchisee at the Licensed Restaurant.

7.8.4 Franchisee is entitled to request that Franchisor approve additional menu items, including food, beverage and merchandise, to be offered at the Licensed Restaurant. Franchisee shall request, in writing, that Franchisor approve such additional menu items and the Supplier of such items (including special promotion requests) at least 30 days before the date Franchisee wishes to offer such additional menu items or special promotions. Upon receiving the written request, Franchisor shall evaluate the suggested menu items and the Supplier of such items pursuant to the policies and procedures detailed in the Manuals to determine, in its sole discretion, whether Franchisee shall be permitted to offer such items at the Licensed Restaurant. Upon receiving written approval from Franchisor, Franchisee may offer such additional menu items, but these will be subject to any conditions and limitations imposed by Franchisor.

## 7.9 Notification of Legal Proceedings; and Crisis Management Events.

7.9.1 Franchisee shall notify Franchisor in writing within 10 days after Franchisee receives actual notice of the commencement of any investigation, action, suit, or other proceeding, or the issuance of any order, writ, injunction, award, or other decree of any court, agency, or other Governmental Authority that pertains to the Licensed Restaurant or that may adversely affect Franchisee's operation of the Licensed Restaurant or ability to meet its obligations hereunder.

7.9.2 Upon the occurrence of a Crisis Management Event, Franchisee shall immediately inform Franchisor's President (or as otherwise instructed in the Manuals) by telephone and email (or other electronic messaging medium authorized by Franchisor for this purpose). Franchisee shall cooperate fully with Franchisor with respect to Franchisor's response to the Crisis Management Event.

7.10 Signs. Franchisee shall maintain approved signs and/or awnings at, on, or near the front of the Premises, identifying the Location as a Licensed Restaurant, which shall conform in all respects to Franchisor's specifications and requirements and the layout and design plan approved for the Location, subject only to restrictions imposed by Applicable Law. On receipt of notice by Franchisor of a requirement to alter any existing sign on its premises, Franchisee will at its cost make the required changes within 60 days, subject to the approval of the landlord if required by Franchisee's Lease.

7.11 Uniforms and Employee Appearance. Franchisee shall cause all employees, while working in the Licensed Restaurant, to: (i) wear uniforms of such color, design, and other specifications, and name tags, as Franchisor may designate from time to time, and (ii) present a neat and clean appearance. If Franchisor removes the type of uniform utilized by Franchisee from the list of approved uniforms, Franchisee shall have 60 days from receipt of written notice of such removal to discontinue use of its existing inventory of uniforms and implement the approved type of uniform. Unless Franchisor otherwise consents in writing, Franchisee's employees working in the Licensed Restaurant shall be dedicated solely to the Licensed Restaurant and shall not work at any other business owned or operated by Franchisee. In no case shall Franchisee permit any employee of Franchisee to wear the required uniform except while working at the Licensed Restaurant; without limiting the generality of the foregoing, the uniform may not be worn off Premises for any other purpose (other than while commuting to and from work at the Licensed Restaurant and at trade shows or other promotional events officially sanctioned by Franchisor).

7.12 Vending or Other Machines. Except with Franchisor's written approval, Franchisee shall not cause or permit vending, gaming machines, pay telephones, automatic teller machines, Internet kiosks or any other mechanical or electrical device to be installed or maintained at the Location.

7.13 Co-Branding. Franchisee may not engage in any co-branding in or in connection with the Licensed Restaurant except with Franchisor's prior written consent. Franchisor shall not be required to approve any co-branding chain or arrangement except in its discretion, and only if Franchisor has recognized that co-branding chain as an approved co-brand for operation within a Licensed Restaurants. "Co-branding" includes the operation of an independent business, product line or operating system owned or licensed by another entity (not Franchisor) that is featured or incorporated within the Premises or is adjacent to the Premises and operated in a manner which is likely to cause the public to perceive it to be related to the Licensed Restaurant ~~licensed and franchised~~ hereunder. An example would be an independent ice cream store or counter installed within the Premises.

## 7.14 Intranet.

7.14.1 Franchisor may, at its option, establish and maintain an Intranet through which franchisees of Franchisor may communicate with each other, and through which Franchisor and Franchisee may communicate with each other and through which Franchisor may disseminate the Manuals, updates thereto and other confidential information. Franchisor shall have discretion and control over all aspects of the Intranet, including the content and functionality thereof. Franchisor will have no obligation to maintain the Intranet indefinitely and may dismantle it at any time without liability to Franchisee.

7.14.2 Franchisee shall have the mere privilege to use the Intranet, subject to Franchisee's strict compliance with the standards and specifications, protocols and restrictions that Franchisor may establish from time to time. Such standards and specifications, protocols and restrictions may relate to, among other things, (a) the use of abusive, slanderous or otherwise offensive language in electronic communications, (b) communications

Without limiting the foregoing, Franchisee shall conduct all local advertising and promotion in accordance with such policies and provisions with respect to format, content, media, geographic coverage and other criteria as are from time to time contained in the Manuals, or as otherwise directed by Franchisor, and shall not use or publish any advertising material except in accordance with said policies and provisions and with Franchisor's prior written approval. Franchisee's use or display of the Marks, and each of them, must at all times be in accordance with Franchisor's policies and provisions and with Franchisor's prior written approval. Unless Franchisor shall give its express written consent, Franchisee shall not use the Local Advertising Expenditure for market wide research, seminars, entertainment, fees paid to consultants not approved by Franchisor, incentive programs, charitable contributions (unless such contributions provide advertising or marketing exposure for the Licensed Restaurant), press parties, or specialty items (unless part of a market-wide program approved by Franchisor and the cost of the same is not recovered by promotion).

8.2 Co-op Advertising. Franchisor may from time to time establish regions for co-operative advertising ("Co-op Advertising Regions"), to coordinate advertising, marketing efforts and programs and maximizing the efficient use of local and/or regional advertising media.

8.2.1 If and when Franchisor creates a Co-op Advertising Region for the region in which the Licensed Restaurant operated hereunder is located, Franchisee (and, if Franchisor or an Affiliate of Franchisor owns a Licensed Restaurant in such Co-op Advertising Region, then Franchisor or such Affiliate of Franchisor ), shall become a subscriber and member thereof and shall execute and participate in accordance with the Subscription Agreement and the Certificate of Incorporation and Bylaws of such Co-op Advertising Region on the forms prescribed by Franchisor. The size and content of such regions, when and if established by the Franchisor, shall be binding upon Franchisee, and all other similarly situated franchisees of the System and Franchisor or such Affiliate of Franchisor, if it operates Restaurant(s) in the region. At all meetings of such Co-op Advertising Region each participating Franchisee, as well as Franchisor (or such Affiliate), if applicable, shall be entitled to one vote for each Restaurant located within such Co-op Advertising Region or such other vote as may reasonably be determined by Franchisor.

8.2.2 Franchisee and every other member of the Co-op Advertising Region whose agreements require their participation will contribute to the Co-op Advertising Region such amount as may be determined by the affirmative vote or consent of not less than a majority of the voting power of the Co-op Advertising Region. Franchisee's contribution to the Co-op Advertising Region shall be applied as a credit towards the satisfaction of the Local Advertising Expenditure as required in Section 8.1 of this Agreement.

8.2.3 Subject to Section 8.2.1 of this Agreement, each Co-op Advertising Region will decide as to the usage of funds available to it for media time, production of media materials, whether for radio, television, newspapers or Licensed Restaurant level materials such as flyers, or posters, or for any other type of advertising or marketing use, and then such Co-op Advertising Region shall in writing request approval from Franchisor to use said funds in said manner. Franchisor shall not withhold approval unreasonably, but no placement of advertising or commitment of advertising funds on behalf of a Co-op Advertising Region will be made without Franchisor's prior written approval. The proposed use of advertising funds collected by the Co-op Advertising Regions will be completely disclosed to all Franchisee-subscribers and not used without the acknowledgement and agreement of a majority of them. Franchisor reserves the right to establish other general standards concerning the operation of the Co-op Advertising Region, advertising agencies retained by Co-op Advertising Region, and advertising programs conducted by Co-op Advertising Region. Any disputes (other than pricing) arising among or between Franchisee, other franchisees, and/or the Co-op Advertising Region may be resolved by Franchisor whose decision shall be final and binding on all parties. No Co-op Advertising Region may appoint or pay from the funds collected by the Co-op Advertising Region fees or costs of any advertising agency or buying group without the prior written permission of Franchisor.

### 8.3 Brand Development Fund.

8.3.1 In accordance with Section 4.3 of this Agreement, Franchisee's Advertising Fee shall be applied to the Brand Development Fund. Subject to Sections 8.3.2 and 8.3.5 of this Agreement, an amount equal to all Brand Development Fund revenues and allocations will be expended for national, regional, or local advertising, public relations or promotional campaigns or programs designed to promote and enhance the image, identity or patronage of franchised, and Franchisor-owned (including Affiliate-owned) Restaurants. Such expenditures may include: (a) creative development, production and placement of print advertisements, commercials, musical jingles, decals, radio spots, audio advertising, point of purchase materials, direct mail pieces, literature, outdoor advertising, door hangers, electronic media advertisements, and other advertising and

shall prepare a statement of contributions and expenditures for the Brand Development Fund and, upon Franchisee's written request, Franchisor shall provide such information to Franchisee.

8.4 Telephone Lines, Telephone Numbers and Directory Advertising. Franchisor may reasonably require a minimum number of telephone lines to service the Licensed Restaurant. In addition to the Advertising Fees and Franchisee's ~~required~~ expenditures required under Section 8.1, Franchisee shall, at its sole expense, subscribe for and maintain throughout the Term, one or more listed telephone numbers which shall be listed as Franchisor may reasonably designate or approve in the city telephone directory or directories ~~as Franchisor may reasonably designate or approve which that~~ service the Territory and adjacent or nearby areas. Franchisor reserves the right to establish general standards concerning directory and other types of advertising.

8.5 Promotional Programs. From time to time during the term hereof, Franchisor shall have the right to establish and conduct promotional programs on a national or regional or individual Licensed Restaurant basis, which may by way of illustration and not limitation promote particular products or marketing themes, set up promotional contests or promote customer loyalty through rewards programs set up in social media or otherwise, and Franchisee is required to participate in all such promotional and customer loyalty programs. Details regarding such promotional and customer loyalty programs will be set forth in the Manuals. Franchisee and each Co-op Advertising Region agree to participate in such promotional campaigns upon such terms and conditions as the Franchisor may establish. Franchisee acknowledges and agrees that such participation may require Franchisee to purchase point of sale advertising material, posters, flyers, product displays and other promotional material (unless provided at no charge through the Brand Development Fund). Franchisee's costs in participating in the promotional campaigns can be used as credit towards the satisfaction of the Local Advertising Expenditure as required in Section 8.1 of this Agreement.

#### 8.6 Internet.

8.6.1 Franchisee shall not develop, create, generate, own, license, lease or use in any manner any computer medium or electronic medium (including any Internet home page, e-mail address, website, domain name, bulletin board, newsgroup or other Internet-related medium or activity) which in any way uses or displays, in whole or part, the Marks, or any of them, or any words, symbols or terms confusingly similar thereto without Franchisor's express prior written consent, and then only in such manner and in accordance with such procedures, policies, standards and specifications as Franchisor may establish from time to time.

8.6.2 Franchisor has established one or more Internet web sites. Franchisor shall have discretion over the design, content and functionality of such web sites. Franchisor may include one or more interior pages that identify restaurants operated under the Marks, including the Licensed Restaurant, by geographic region, address, telephone number, and menu items. Such website may also include one or more interior pages dedicated to the sale of franchises by Franchisor and/or relations with Franchisor's or its Affiliate's investors. Franchisor may permit Franchisee to periodically select from Franchisor's designated alternative design elements for an interior page (or portion thereof) dedicated to the Licensed Restaurant. Such designated alternative design elements may change from time to time. Franchisor will implement any such designated design elements or changes promptly, subject to Franchisor's business needs and scheduling availability. Franchisor may disable or terminate such website(s), in whole or in part, without Franchisor having any liability to Franchisee.

8.6.3 Franchisee acknowledges and agrees that Franchisor (or its Affiliate) is the owner of, and will retain all right, title and interest in and to (i) the domain name "gyu-kaku.com"; (ii) the URL: "www.gyu-kaku.com"; all existing and future domain names, URLs, future addresses and sub-addresses using the Marks in any manner; (iii) all computer programs and computer code (~~e.g., HTML, XML DHTML, Java~~) used for or on the Franchisor's web site(s), excluding any software owned by third parties; (iv) all text, images, sounds, files, video, designs, animations, layout, color schemes, trade dress, concepts, methods, techniques, processes and data used in connection with, displayed on, or collected from or through Franchisor's web site(s); and (iv) all intellectual property rights in or to any of the foregoing.

### ARTICLE 9 DISTRIBUTION AND PURCHASE OF EQUIPMENT, SUPPLIES, AND OTHER PRODUCTS

9.1 GYU-KAKU Brand Products. At all times throughout the Term, Franchisee shall purchase and maintain in inventory such types and quantities of GYU-KAKU Brand Products and other necessary supplies as

are needed to meet reasonably anticipated consumer demand. Franchisee shall purchase GYU-KAKU Brand Products either from Franchisor, its designees or other vendors with Franchisor's prior written approval.

9.2 Proprietary Products. Franchisor may, from time to time throughout the Term, require that Franchisee purchase, use, offer and/or promote, and maintain in stock at the Licensed Restaurant (i) in such quantities as are needed to meet reasonably anticipated consumer demand, certain proprietary products, sauces, marinades, beverages, food products and other ingredients and raw materials, which are grown, produced or manufactured in accordance with the Trade Secrets, proprietary recipes, specifications and/or formulas or which Franchisor designates as "proprietary," and (ii) certain packaging, POS System(s), computer hardware, software, modems and peripheral equipment or other products, supplies, services and equipment designated by Franchisor as "proprietary" ("Proprietary Products"). Franchisee shall purchase Proprietary Products only from Franchisor or its Affiliates, or other vendors (but only with Franchisor's prior written approval). Franchisor shall not be obligated to reveal such Trade Secrets, recipes, specifications and/or formulas of such Proprietary Products to Franchisee, non-designated suppliers, or any other third parties.

9.3 Non-Proprietary Products. Franchisor may designate certain food products (including specifically but without limitation, types of rice), condiments, beverages, raw materials, fixtures, furnishings, equipment, uniforms, supplies, paper goods, services, menus, packaging, forms, POS System(s), computer hardware, software, modems and peripheral equipment and other products, supplies, services and equipment, other than Proprietary Products, which Franchisee may or must use and/or offer and sell at the Licensed Restaurant ("Non-Proprietary Products"). Franchisee may, but shall not be obligated to, purchase such Non-Proprietary Products from Franchisor or its Affiliate, if Franchisor or such Affiliate, supply the same. Franchisee may use, offer or sell only such Non-Proprietary Products that Franchisor has expressly authorized, and that are purchased or obtained from Franchisor or from a producer, manufacturer, distributor, supplier or service provider ("Supplier") designated or approved by Franchisor pursuant to Section 9.3.2 of this Agreement.

9.3.1 Franchisee may purchase authorized Non-Proprietary Products from (i) Franchisor or its Affiliates (if they sell the same); (ii) Suppliers designated by Franchisor; or (iii) Suppliers selected by Franchisee and approved in writing by Franchisor prior to Franchisee making such purchase(s). Each such Supplier designated or approved by Franchisor must comply with Franchisor's usual and customary requirements regarding insurance, indemnification, and non-disclosure, and shall have demonstrated to the reasonable satisfaction of Franchisor: (a) its ability to supply a Non-Proprietary Product meeting the specifications of Franchisor, which may include specifications as to brand name, model, contents, manner of preparation, ingredients, quality, freshness and compliance with governmental standards and regulations and all Applicable Laws; (b) its reliability with respect to delivery and the consistent quality of its products or services; and (c) its ability to meet such other requirements as determined by Franchisor to be in the best interest of the System.

9.3.2 If Franchisee should desire to procure authorized Non-Proprietary Products from a Supplier other than Franchisor or one previously approved or designated by Franchisor (and not subsequently disapproved), Franchisee shall deliver written notice to Franchisor of its desire to seek approval of such Supplier, which notice shall (a) identify the name and address of such Supplier, (b) contain such information as may be requested by Franchisor or required to be provided pursuant to the Manuals (which may include reasonable financial, operational and economic information regarding its business and its product), and (c) identify the authorized Non-Proprietary Products desired to be purchased from such Supplier. Franchisor shall, upon request of Franchisee, ~~furnish to give~~ Franchisee the general, but not manufacturing, specifications for such Non-Proprietary Products if such are not contained in the Manuals. The Franchisor may thereupon request that the proposed Supplier furnish Franchisor at no cost to Franchisor, product samples, specifications and such other information as Franchisor may require. Franchisor or its representatives, including qualified third parties, shall also be permitted to inspect the facilities of the proposed Supplier and establish economic terms, delivery, service and other requirements consistent with other distribution relationships for other Restaurants.

9.3.3 Franchisor will use its good faith efforts to notify Franchisee of its decision within 60 days after Franchisor's receipt of Franchisee's request for approval and other requested information and items in full compliance with this Section 9.3; should Franchisor not deliver to Franchisee, within 60 days after it has received such notice and all information and other items requested by Franchisor in order to evaluate the proposed Supplier, a written statement of approval with respect to such Supplier, such Supplier shall be deemed disapproved as a Supplier of the authorized Non-Proprietary Products described in such notice. Nothing in this article shall require Franchisor to approve any Supplier, and without limiting Franchisor's right to approve or disapprove a Supplier in its discretion, Franchisee acknowledges that it is generally disadvantageous to the system from a cost and service basis to have more than one Supplier in any given market area and that among

the other factors Franchisor may consider in deciding whether to approve a proposed Supplier, it may consider the effect that such approval may have on the ability of Franchisor and its Franchisees to obtain the lowest distribution costs and on the quality and uniformity of products offered system-wide. Without limiting the foregoing, Franchisor may ~~withhold approval of~~ ~~disapprove~~ a proposed Supplier, if in Franchisor's opinion; the approval of the proposed Supplier would disrupt or adversely impact Franchisor's national or regional distribution~~al~~ arrangements. Franchisor may also determine that certain Non-Proprietary Products (for example, beverages) shall be limited to a designated brand or brands set by Franchisor. Franchisor may revoke its approval upon the Supplier's failure to continue to meet any of Franchisor's criteria. Franchisee agrees that at such times that Franchisor establishes a regional purchasing program for any of the raw materials used in the preparation of Authorized Gyu-Kaku Products or other Non-Proprietary Products used in the operation of the Licensed Restaurant, which may benefit Franchisee by reduced price, lower labor costs, production of improved products, increased reliability in supply, improved distribution, raw material cost control (establishment of consistent pricing for reasonable periods to avoid market fluctuations), improved operations by Franchisee or other tangible benefits to Franchisee, Franchisee will participate in such purchasing program in accordance with the terms of such program.

9.3.4 As a further condition of its approval, Franchisor may require a Supplier to agree in writing: (i) to provide from time to time upon Franchisor's request free samples of any Non-Proprietary Product it intends to supply to Franchisee, (ii) to faithfully comply with Franchisor's specifications for applicable Non-Proprietary Products sold by it, (iii) to sell any Non-Proprietary Product bearing the Marks only to franchisees and Franchisees of Franchisor and only pursuant to a trademark license agreement in form prescribed by Franchisor, (iv) to provide to Franchisor duplicate purchase invoices for Franchisor's records and inspection purposes and (v) to otherwise comply with Franchisor's reasonable requests.

9.3.5 Franchisee or the proposed Supplier shall pay to Franchisor in advance (or upon Franchisor's request, reimburse Franchisor for) all of Franchisor's reasonably anticipated costs in reviewing the application of the Supplier to service the Franchisee and all current and future reasonable costs and expenses, including travel and living costs, related to inspecting, re-inspecting and auditing the Suppliers' facilities, equipment, and food products, and all product testing costs paid by Franchisor to third parties.

9.3.6 Franchisee shall at all times remain current and fully comply and perform each of its obligations to its landlord, vendors and Suppliers.

#### 9.4 Purchases from Franchisor.

9.4.1 All goods, products, and supplies purchased from Franchisor shall be purchased in accordance with the purchase order format issued from time to time by Franchisor, the current form of which shall be set forth in the Manuals. Franchisor may change the prices, delivery terms and other terms relating to its sale of goods, services, products and supplies ("Goods and Services") to Franchisee on prior written notice, provided, that such prices shall be the same as the prices charged to similarly situated Franchisees (excluding shipping, transportation, warehousing, insurance and related costs and expenses) and which shall be reasonable based upon the costs associated with such Goods and Services. In its discretion, Franchisor may discontinue the sale of any Goods or Services at any time if in Franchisor's judgment its continued sale becomes unfeasible, unprofitable, or otherwise undesirable. All product orders by Franchisee shall be subject to acceptance by Franchisor at Franchisor's designated offices, and Franchisor reserves the right to accept or reject, in whole or in part, any order placed by Franchisee. Franchisee shall submit to Franchisor, upon written request, financial statements which contain sufficient information to enable Franchisor to determine the credit limits, if any, to be extended to Franchisee. Franchisor, in its sole discretion, may establish the credit terms, if any, upon which it will accept Franchisee's orders, and may require Franchisee to pay for orders on a cash-in-advance or cash-on-delivery basis.

9.4.2 Each order placed by Franchisee, whether oral or written, for any product shall be deemed to incorporate all of the terms and conditions of this Agreement, shall be deemed subordinate to this Agreement in any instance where any term or condition of such order conflicts with any term or condition of this Agreement, and shall include such information as Franchisor may from time to time specify, and shall be submitted on such form of purchase order as may be prescribed by Franchisor from time to time. No purchase order submitted by Franchisee shall contain any terms except as approved in writing by Franchisor, nor ~~can it~~ be deemed complete unless all of the information required by the prescribed purchase order form, as revised from time to time, is provided by Franchisee. No new or additional term or condition contained in any order placed by

Franchisee shall be deemed valid, effective or accepted by Franchisor unless such term or condition shall have been expressly accepted by Franchisor in writing.

9.4.3 Franchisor shall not be liable to Franchisee on account of any delay or failure in the manufacture, delivery or shipment of goods or products caused by Force Majeure or other events or circumstances beyond Franchisor's reasonable control including such events as labor or material shortages, conditions of supply and demand, import/export restrictions, or disruptions in Franchisor's supply sources.

9.4.4 Franchisor may act as a Supplier of goods, services, products, and/or supplies purchased by Franchisee. On the transfer, expiration, non-renewal or termination of this Agreement, or in the event of any default by Franchisee of this Agreement, Franchisor shall not be obliged to fill or ship any orders then pending or made any time thereafter by Franchisee (provided that Franchisor will refund to Franchisee all prepayments for orders not delivered), and Franchisor may notify its approved Suppliers of any impending transfer termination or expiration of this Agreement and may, among other things, instruct such Suppliers to deliver only such quantity of Proprietary Products as is reasonably necessary to supply Franchisee's needs prior to the transfer, expiration or termination date of this Agreement.

9.5 Test Marketing. Franchisor may, from time to time, authorize Franchisee to test market products and/or services in connection with the operation of the Licensed Restaurant. Franchisee shall cooperate with Franchisor in connection with the conduct of such test marketing and shall comply with ~~the~~ Franchisor's applicable rules and regulations.

#### 9.6 Customer Reporting; Comment Cards.

9.6.1 At Franchisor's request, Franchisee shall use reasonable efforts to secure the names, ~~and~~ addresses ~~(and other information reasonably required requested by Franchisor)~~, of ~~Franchisee's~~ customers ~~of at~~ the Licensed Restaurant and shall allow such information to be used by Franchisor. Franchisor shall indemnify Franchisee from and against any and all losses, costs and liability in connection with misuse by Franchisor of such information. Franchisee may not divulge such customer names, addresses or other information, with or without remuneration, to any third party. Franchisee shall respond promptly to each customer inquiry or complaint and resolve all reasonable complaints to the customer's satisfaction.

9.6.2 Franchisee shall use and display in the Licensed Restaurant during all operating hours customer comment and other cards in the manner specified in the Manuals. Franchisee shall, from time to time, purchase from Franchisor or a Supplier, and maintain in the Licensed Restaurant, a supply of postage prepaid customer comment cards reasonably adequate to meet Franchisee's needs.

### ARTICLE 10 REPORTS, BOOKS AND RECORDS, INSPECTIONS

10.1 General Reporting. Franchisee shall, as and when specified by Franchisor, submit to Franchisor statistical control forms and such other financial (on an accrual basis), operational and statistical information as Franchisor may require to: (i) assist Franchisee in the operation of the Licensed Restaurant in accordance with the System; (ii) allow Franchisor to monitor the Franchisee's Gross Sales, purchases, costs and expenses; (iii) enable Franchisor to develop chain wide statistics which may improve bulk purchasing; (iv) assist Franchisor in the development of new authorized products or the removal of existing unsuccessful Authorized Gyu-Kaku Products; (v) enable Franchisor to refine existing Authorized Gyu-Kaku Products; (vi) generally improve chain-wide understanding of the System (collectively, the "**Information**"). Without limiting the generality of the foregoing:

10.1.1 Unless otherwise agreed by Franchisor in writing, Franchisee must also submit (i) condensed reports of daily Gross Sales to Franchisor on a daily basis in accordance with the guidelines established by Franchisor and (ii) reports of Franchisee's operational numbers on a weekly basis (due by the 2nd business day of the following week) using the report form entitled "Weekly Summary and Food Cost" which is contained in the Manuals. Franchisee will electronically link the Licensed Restaurant to Franchisor and will allow Franchisor to poll on a daily basis at a time selected by the Franchisor the Licensed Restaurant computerized POS system to retrieve Information including sales, sales mix, usage, and operations data. If Franchisee fails to do so, Franchisee may be required to pay reimburse Franchisor ~~a penalty of \$150~~ the cost to have a supervisor employee of Franchisor complete the report.

the expenses of the audit/inspection shall be borne and paid by Franchisee upon billing by Franchisor, which shall include Franchisor's travel, lodging, wage expense and reasonable accounting and legal expense. Without limiting the foregoing, if such audit or other investigation reveals an under-reporting or under-recording error of 5% percent or more, Franchisor, in addition to any other rights and remedies it may have, including the right to terminate this Agreement as provided in Article 14, may require Franchisee to maintain and deliver to Franchisor from time to time, financial statements audited by an independent certified public accountant.

10.4 Books and Records. Franchisee shall maintain an accounting and record keeping system, which shall provide for basic accounting information necessary to prepare financial statements, a general ledger, and reports required by this Agreement and the Manuals. Franchisee shall maintain accurate, adequate and verifiable books and ~~records supporting documentation~~ relating to such accounting information.

## **ARTICLE 11 TRADEMARKS**

11.1 Use of Marks. Subject to Section 11.9 of this Agreement, the Licensed Restaurant shall be named "GYU-KAKU" with only such additional prefix or suffix as may be required by Franchisor from time to time. Franchisee shall use and display such of Franchisor's trade dress, Marks, and such signs, advertising and slogans only as Franchisor may from time to time prescribe or approve. Upon expiration or sooner termination of this Agreement, Franchisor may, if Franchisee does not do so, execute in Franchisee's name and on Franchisee's behalf, any and all documents necessary in Franchisor's judgment to end and cause the discontinuance of Franchisee's use of the trade dress and Marks and Franchisor is hereby irrevocably appointed and designated as Franchisee's attorney-in-fact so to do. Franchisee shall not imprint or authorize any person to imprint any of the Marks on any product without the express written approval of Franchisor. Franchisee shall not use the Marks in connection with any offering of securities or any request for credit without the prior express written approval of Franchisor. Franchisor may withhold or condition any approval related to the Marks, including those described in this Section, in its discretion. During the Term, Franchisee shall identify the Licensed Restaurant as an independently owned and operated franchise of Franchisor, in the form and manner specified by Franchisor, including on all invoices, order forms, receipts, checks, business cards, on posted notices located the Location and in other media and advertisements as Franchisor may direct from time to time.

11.2 Non-Use of Trade Name. If Franchisee is an Entity, it shall not use the Marks, or Franchisor's trade name, or any words or symbols which are confusingly phonetically or visually similar to the Marks, as all or part of Franchisee's name.

11.3 Use of Other Trademarks. Franchisee shall not display the trademark, service mark, trade name, insignia or logotype of any other person or Entity in connection with the operation of the Licensed Restaurant without the express prior written consent of Franchisor, which consent will not be unreasonably withheld; provided however, in the case of a Non-Traditional Venue, the Premises (but not the Licensed Restaurant) may display the trademarks, service marks and other commercial symbols of Franchisee or third parties, in accordance with the terms herein contained.

11.4 Non-ownership of Marks. Nothing herein shall give Franchisee, and Franchisee shall not assert any right, title or interest in Franchisor's trade dress, or to any of the Marks or the goodwill annexed thereto, except a mere privilege and license during the term hereof, to display and use the same according to the terms and conditions herein contained.

11.5 Defense of Marks. If Franchisee receives notice, or is informed, of any claim, suit or demand against Franchisee on account of any alleged infringement, unfair competition, or similar matter on account of its use of the Marks in accordance with the terms of this Agreement, Franchisee shall promptly notify Franchisor of any such claim, suit or demand. Thereupon, Franchisor shall take such action as it may deem necessary and appropriate to protect and defend Franchisee against any such claim by any third party. Franchisee shall not settle or compromise any such claim by a third party without the prior written consent of Franchisor. Franchisor shall have the sole right to defend, compromise or settle any such claim, in its discretion, at Franchisor's sole cost and expense, using attorneys of its own choosing, and Franchisee shall cooperate fully with Franchisor in connection with the defense of any such claim. Franchisee may participate at its own expense in such defense or settlement, but Franchisor's decisions with regard thereto shall be final.

11.6 Prosecution of Infringers. If Franchisee shall receive notice or is informed or learns that any third party, which it believes to be unauthorized to use the Franchisor's trade dress or Marks, is using Franchisor's

12.1.2 To the extent permitted by Applicable Law, upon (i) the transfer, expiration or termination of this Agreement, (ii) the occurrence of any Assignment, or (iii) the cession of any Restricted Person's relationship with Franchisee, each person who was a Restricted Person before such event shall not for a period of 24 months thereafter, either directly or indirectly, own, operate, advise, be employed by, or have any financial interest in any Japanese restaurant or other business engaged in Competitive Activities within the Territory, or within an area within 10 miles from any existing Restaurant, without the Franchisor's prior written consent. In applying for such consent, Franchisee will have the burden of establishing that any such activity by it will not involve the use of benefits provided under this Agreement or constitute unfair competition with Franchisor or other franchisees of Franchisor.

## 12.2 Trade Secrets.

12.2.1 Franchisor possesses and continues to develop, and during the course of the relationship established hereunder, Restricted Persons may have access to proprietary and confidential information, including the Trade Secrets, Proprietary Software (and related documentation) recipes, secret ingredients, specifications, procedures, concepts and methods and techniques of developing and operating a Licensed Restaurant and producing Authorized Gyu-Kaku Products. Franchisor may disclose certain of its Trade Secrets to Restricted Persons in the Manuals, bulletins, supplements, confidential correspondence, or other confidential communications, and through the Franchisor's training program and other guidance and management assistance, and in performing Franchisor's other obligations and exercising Franchisor's rights under this Agreement. "Trade Secrets" shall not include information which: (i) has entered the public domain or was known to Franchisee prior to Franchisor's disclosure of such information to Franchisee, other than by the breach of an obligation of confidentiality owed (by anyone) to Franchisor or its Affiliates; (ii) becomes known to the Restricted Persons from a source other than Franchisor or its Affiliates and other than by the breach of an obligation of confidentiality owed (by anyone) to Franchisor or its Affiliates; or (iii) was independently developed by Franchisee without the use or benefit of any of the Trade Secrets. The burden of proving the applicability of the foregoing will reside with Franchisee.

12.2.2 Each Restricted Person shall acquire no interest in the Trade Secrets other than the right to use them in developing and operating the Licensed Restaurant during the Term of this Agreement. A Restricted Person's duplication or use of the Trade Secrets in any other endeavor or business shall constitute an unfair method of competition. Each Restricted Person shall: (i) not alter, change or misuse any recipe or food presentation required by Franchisor; (ii) not use the Trade Secrets in any business or other endeavor other than in connection with the Licensed Restaurant; (iii) maintain absolute confidentiality of the Trade Secrets during and after the Term of this Agreement; and (iv) make no unauthorized copy of any portion of the Trade Secrets, including the Manuals, bulletins, supplements, confidential correspondence, or other confidential communications, whether written or oral. Franchisee shall operate the Licensed Restaurant and implement all reasonable procedures prescribed from time to time by Franchisor to prevent unauthorized use and disclosure of the Trade Secrets, including implementing restrictions and limitations as Franchisor may prescribe on disclosure to employees and use of non-disclosure and non-competition provisions in employment agreements with employees who may have access to the Trade Secrets. Promptly upon Franchisor's request, Franchisee shall deliver executed copies of such agreements to Franchisor. If Franchisee has any reason to believe that any employee has violated the provisions of the confidentiality and noncompetition agreement, Franchisee shall promptly notify Franchisor and shall cooperate with Franchisor to protect Franchisor against infringement or other unlawful use including, but not limited to, the prosecution of any lawsuits at Franchisor's expense if, in the judgment of Franchisor, such action is necessary or advisable.

12.2.3 In view of the importance of the Marks and the Trade Secrets and the incalculable and irreparable harm that would result to the parties in the event of a default of the covenants and agreements set forth herein in connection with these matters, the parties agree that each party may seek immediate equitable remedies including, but not limited to, restraining mandatory orders (including specific performance) and/or injunctive relief and any damages incidental thereto from a court of competent jurisdiction to enforce the covenants and agreements in this Agreement, in addition to any other relief to which such party may be entitled at law or in equity. Each party submits to the exclusive jurisdiction of the courts of the State of California and the U.S. federal courts sitting in Los Angeles, California for purposes thereof. The parties agree that venue for any such proceeding shall be the state and federal courts located in Los Angeles, California.

12.3 Confidentiality and Press Releases. Unless disclosure is required by Applicable Law, no public communication, press release or announcement regarding this Agreement, the transactions contemplated hereby

mortgage, hypothecate, or otherwise encumber, in whole or in part, any direct or indirect interest in this Agreement or all or any substantial portion of the assets of the Licensed Restaurant (except as consented to by Franchisor, which consent will not be unreasonably withheld, in connection with *bona fide* borrowing by Franchisee from a lender in which assets of the Licensed Restaurant are pledged as security for repayment of the loan), in whole or in part, voluntarily or involuntarily, other than the sale of Authorized Gyu-Kaku Products in the ordinary course (an "Assignment"). Any such purported Assignment occurring by operation of law or otherwise without Franchisor's prior written consent shall constitute a default of this Agreement by Franchisee and shall be null and void. Except in the instance of Franchisee advertising to sell the Licensed Restaurant and assign this Agreement in accordance with the terms hereof, Franchisee shall not, without Franchisor's prior written consent, offer for sale or transfer at public or private auction or advertise publicly for sale or transfer, the furnishings, interior and exterior decor items, supplies, fixtures, equipment, Franchisee's Lease or the real or personal property used in connection with the Licensed Restaurant. Franchisee may not make any Assignment to a public Entity, or to any Entity whose direct or indirect parent's securities are publicly traded, and no shares of Franchisee or any Owner of Franchisee may be offered for sale through the public offering of securities. To the extent that any prohibition on the pledge, hypothecation, encumbrance or granting of a security interest in this Agreement or the assets of the Licensed Restaurant may be ineffective under Applicable Law, Franchisee shall provide not less than 10 days prior written notice (which notice shall contain the name and address of the secured party and the terms of such pledge, hypothecation, encumbrance or security interest) of any pledge, encumbrance, hypothecation or security interest in this Agreement or the assets of the Licensed Restaurant.

13.2.2 If Franchisee is an Entity, each of the following shall be deemed to be an Assignment of this Agreement: (i) the sale, assignment, transfer, conveyance, gift, pledge, mortgage, or other encumbrance of more than 50% in the aggregate, whether in one or more transactions, of the Equity or voting power of Franchisee, by operation of law or otherwise or any other event(s) or transaction(s) which, directly or indirectly, effectively changes control of Franchisee; (ii) the issuance of any securities by Franchisee which itself or in combination with any other transaction(s) results in its Owners, as constituted on the Effective Date, owning less than 51% of the outstanding Equity or voting power of Franchisee; (iii) if Franchisee is a Partnership, the resignation, removal, withdrawal, death or legal incapacity of a general partner or of any limited partner owning more than 50% of the Partnership Rights of the Partnership, or the admission of any additional general partner, or the transfer by any general partner of any of its Partnership Rights in the Partnership, or any change in the ownership or control of any general partner; (iv) the death or legal incapacity of any Owner of Franchisee owning more than 50% of the Equity or voting power of Franchisee; and (v) any merger, stock redemption, consolidation, reorganization, recapitalization or other transfer of control of the Franchisee, however effected. If Franchisee is an Entity, Franchisee shall promptly provide Franchisor with written notice (stating such information as Franchisor may from time to time require) of each and every transfer, assignment and encumbrance by any Owner of any direct or indirect Equity or voting rights in Franchisee, notwithstanding that the same may not constitute an "Assignment".

13.2.3 Franchisor will not unreasonably withhold or condition its consent to any Assignment which is subject to the restrictions of this Article, provided however, Franchisor may impose any reasonable condition to the granting of its consent, and requiring Franchisee to satisfy any or all of the following conditions shall be deemed reasonable:

(a) Franchisee's written request for Franchisor's consent to Assignment must be accompanied by a detailed description of the price and all material terms and conditions of the proposed Assignment and the identity of the proposed assignee and such other information as Franchisor may reasonably request.

(b) Franchisor's receipt of an estoppel agreement indicating any and all causes of action, if any, that Franchisee may have against Franchisor or if none exist, so stating, and a list of all Owners having an interest in this Agreement or in Franchisee, the percentage interest of Owner, and a list of all officers and directors, in such form as Franchisor may require.

(c) If the Assignment involves a transfer of the Franchise of 100% of the equity ownership of the Franchisee entity, Franchisee's written request for consent to any Assignment must be accompanied by an offer to Franchisor of a right of first refusal to purchase the interest which is proposed to be transferred, on the same terms and conditions offered by the third party; provided that Franchisor may substitute cash for any non-cash consideration proposed to be given by such third party (in an amount determined by Franchisor reasonably and in good faith as the approximate equivalent value of said non-cash consideration); and provided further that Franchisee shall make representations and warranties to Franchisor customary for transactions of the type proposed (the "Purchase Option"). If Franchisor elects to exercise the Purchase Option,

Franchisor or its nominee, as applicable, shall send written notice of such election to Franchisee within 30 days of receipt of Franchisee's request (which must include all relevant details of the proposed Assignment). If Franchisor accepts such offer, the training and transfer/administrative fees due by Franchisee in accordance with this Agreement shall be waived by Franchisor, and the closing of the transaction shall occur within 60 days following the date of Franchisor's acceptance. Any material change in the terms of an offer prior to closing (or the failure to close the transaction within 60 days following the rejection by Franchisor) shall cause it to be deemed a new offer, subject to the same right of first refusal by Franchisor, ~~or its third-party designee~~, as in the case of the initial offer. Franchisor's failure to exercise such option shall not constitute consent to the transfer or a waiver of any other provision of this Agreement, including any of the requirements of this Article with respect to the proposed transfer. Without waiving any other rights provided for herein or otherwise, Franchisor hereby waives its Purchase if the proposed transferee/assignee is an immediate family member of Franchisee or immediate family member of a Principal Equity Owner or in connection with estate or tax planning.

(d) The Franchisee shall not be in default under the terms of this Agreement (or any other related agreement), the Manuals or any other obligations owed Franchisor, and all of its then-due monetary obligations to Franchisor shall have been paid in full.

(e) The Franchisee, and its Owners, if the Franchisee is an Entity, shall execute a general release under seal, in a form prescribed by Franchisor, of any and all claims against Franchisor, its Affiliates, Owner(s), directors, officers, agents and employees.

(f) The transferee/assignee shall have demonstrated to Franchisor's satisfaction that it meets all of Franchisor's then-current requirements for new Restaurant operators or for holders of an interest in a franchise or license, including possession of good moral character and reputation, satisfactory credit ratings, acceptable business qualifications, the ability to obtain or acquire the license(s) and permit(s) necessary for the sale of alcoholic beverages, and the ability to fully comply with the terms of this Agreement.

(g) The transferee/assignee shall have either (i) assumed this Agreement by a written assumption agreement approved by Franchisor, or has agreed to do so at closing, and at closing executes an assumption agreement approved by Franchisor; or (ii) at Franchisor's option, shall have executed a replacement franchise agreement on the then-current standard form of franchise agreement used by Franchisor in the State in which the Licensed Restaurant is being operated, provided, however, that the term of replacement franchise agreement shall be the remaining term of this Agreement.

(h) The assignee shall agree to refurbish the Licensed Restaurant as needed (in Franchisor's discretion) to match the building design, trade dress, color scheme and presentation then used by Franchisor within the 12--month period preceding the assignment for its (or its Affiliates') Restaurants (such refurbishment may include remodeling, redecoration and modifications to existing improvements).

(i) There shall not be any suit, action, or proceeding pending against Franchisee with respect to the Licensed Restaurant.

(j) Upon submission of Franchisee's request for Franchisor's consent to any proposed transfer or assignment, Franchisee shall pay to Franchisor an administrative/transfer fee of \$10,000 (which becomes non-refundable upon Franchisor's consent to the assignment). Notwithstanding the foregoing sentence, if the transferee/assignee is: (i) a member of Franchisee's immediate family; (ii) a current Gyu-Kaku franchisee in good standing of three or more years; or (iii) an employee of a franchised Restaurant or Franchisor owned Restaurant of five or more years, the transfer fee shall be reduced to \$2,000.

(k) The transferee/assignee, its manager and other employees responsible for the operation of the Licensed Restaurant shall have satisfactorily completed Franchisor's Initial Training Program and paid all fees related thereto.

13.2.4 Franchisor's consent to an Assignment shall not constitute a waiver of any claims it may have against the transferring party arising out of this Agreement or otherwise, including (i) any payment or other duty owed by Franchisee to Franchisor under this Agreement before such Assignment; or (ii) Franchisee's duty of indemnification and defense as set forth in Section 17.2 of this Agreement, whether before or after such Assignment, or (iii) the obligation to obtain Franchisor's consent to any subsequent transfer.

13.3 Entity Franchisee. If a Franchisee is an Entity, the following provisions will apply:

13.3.1 Franchisee shall notify Franchisor in writing within 10 days of any change in the information set forth in Exhibit 2, and shall submit to Franchisor a revised Exhibit 2, certified by Franchisee as true, correct and complete and upon acceptance thereof by Franchisor shall be annexed to this Agreement as Exhibit 2. Franchisee promptly shall provide such additional information as Franchisor may from time-to-time request concerning all persons who may have any direct or indirect financial interest in Franchisee.

13.3.2 All of Franchisee's organizational documents (including articles of partnership, partnership agreements, articles of incorporation, articles of organization, bylaws, shareholders agreements, trust instruments, or their equivalent) will provide that the issuance and transfer of any interest in Franchisee is restricted by the terms of this Agreement, and that sole purpose for which Franchisee is formed (and the sole activity in which Franchisee is or will be engaged) is the development and operation of Restaurants, pursuant to one or more franchise agreements from Franchisor. Franchisee shall submit to Franchisor, upon the execution of this Agreement and thereafter from time to time upon Franchisor's request, a resolution of Franchisee (or its governing body) confirming that Franchisee is following this provision.

13.3.3 All present and future Owners of a 10% or more (directly or indirectly), in the aggregate, of the Equity or voting rights in Franchisee, will execute a written guarantee in the form of Exhibit 3 attached hereto or another form prescribed by Franchisor, personally, irrevocably and unconditionally guaranteeing, jointly and severally, with all other guarantors, the full payment and performance of Franchisee's obligations to Franchisor and to Franchisor's Affiliates. For purposes of determining whether said 10% threshold is satisfied, holdings of spouses (and family members who live in the same household) and Affiliates shall be aggregated. Upon each transfer or assignment of an interest in Franchisee, or other change in ownership interests in Franchisee and at any other time upon Franchisor's request, said holders shall re-execute a written guarantee in a form prescribed by Franchisor. Notwithstanding the foregoing provisions of section 13.3.3 above or section 13.4.1(h) below, if Franchisee is an entity with a net worth of \$1,000,000 or more, as verified by its financial statement submitted to Franchisor, for so long as the Franchisee entity maintains its net worth at that level or above, no written guarantee will be required of its Owners.

13.3.4 Securities, partnership or other ownership interests in Franchisee may not be offered to the public under the Securities Act of 1933, as amended, nor may they be registered under the Securities Exchange Act of 1934, as amended, or any comparable federal, state or foreign law, rule or regulation. Such interests may be offered by private offering or otherwise only with the prior written consent of Franchisor, which consent shall not be unreasonably withheld. All materials required for any such private offering by federal or state law shall be submitted to Franchisor for a limited review as discussed below prior to being filed with any governmental agency; and any materials to be used in any exempt offering shall be submitted to Franchisor for such review prior to their use. No such offering by Franchisee shall imply that Franchisor is participating in an underwriting, issuance or offering of securities of Franchisee or Franchisor, and Franchisor's review of any offering materials shall be limited solely to the subject of the relationship between Franchisee and Franchisor and its Affiliates. Franchisor may, at its option, require Franchisee's offering materials to contain a written statement prescribed by Franchisor concerning the limitations described in the preceding sentence. Franchisee, its Owners and the other participants in the offering must fully defend and indemnify Franchisor, and its Affiliates, their respective partners and the officers, directors, manager(s) (if a limited liability company), shareholders, members, partners, agents, representatives, independent contractors, servants and employees of each of them, from and against any and all losses, costs and liability in connection with the offering and shall execute any additional documentation required by Franchisor to further evidence this indemnity. For each proposed offering, Franchisee shall pay, in addition to any transfer fee required under Section 13.2.3(k) of this Agreement, to Franchisor a non-refundable fee of \$5,000, or such greater amount as is necessary to reimburse Franchisor for its reasonable costs and expenses associated with reviewing the proposed offering, including legal and accounting fees. Franchisee shall give Franchisor written notice at least 30 days prior to the date of commencement of any offering or other transaction covered by this Section.

#### 13.4 Assignment to a Controlled Entity.

13.4.1 If Franchisee is one or more individuals, and in the event that Franchisee proposes to transfer all of its interest in this Agreement and the assets of the Licensed Restaurant operated hereunder to an Entity formed by Franchisee solely for the convenience of ownership, Franchisee may (without paying the transfer fee specified in Section 13.2.3(k) of this Agreement), with Franchisor's written consent, transfer such interest and assets, provided, and on condition that:

(a) upon Franchisor's request, Franchisee delivering to Franchisor a true, correct and complete copy of the transferee Entity's articles of incorporation or articles of organization, bylaws, operating agreement, partnership agreement, and other organizational documents, and Franchisor has accepted the same;

(b) the transferee Entity's articles of incorporation or articles of organization, bylaws, and operating agreement, as applicable, shall provide that its activities are confined exclusively to operating the Licensed Restaurant operated hereunder;

(c) Franchisee directly owns not less than 51% of the Equity and voting rights of the transferee Entity;

(d) such Entity is in good standing in its jurisdiction of organization and each other jurisdiction where the conduct of its business or the operation of its properties requires it to be so qualified;

(e) the person designated by Franchisee as the Operating Principal has exclusive day-to-day operational control of the Licensed Restaurant;

(f) such Entity conducts no other business than the operation of Licensed Restaurants;

(g) such Entity assumes all of the obligations under this Agreement pursuant to written agreement, the form and substance of which shall be acceptable to Franchisor;

(h) each individual comprising Franchisee, and all present and future owners of 10% or more (directly or indirectly), in the aggregate, of the Equity or voting rights of an entity Franchisee (unless the entity Franchisee has and maintains a net worth of at least \$1,000,000) shall execute a written guarantee, in the form of Exhibit 3 attached hereto or another form prescribed by Franchisor, personally, irrevocably and unconditional guaranteeing, jointly and severally, with all other guarantors, the full payment and performance of all of the obligations to Franchisor and its Affiliates under this Agreement;

(i) that none of the Owners of the Equity of the transferee Entity is, directly or indirectly, engaged in a Competitive Activity;

(j) at Franchisor's request, Franchisee shall, and shall cause each of its Affiliates who have executed a franchise agreement and each direct or indirect parent or subsidiary of such Affiliate, to execute and deliver to Franchisor a general release, on a form prescribed by Franchisor of any and all known and unknown claims against Franchisor and its Affiliates and their respective officers, directors, agents, shareholders and employees; and

(k) Franchisee shall reimburse Franchisor for all direct and indirect costs and expense it may incur in connection with the transfer, including reasonable legal fees.

13.4.2 In the event that Franchisee exercises its rights under Section 13.4.1 of this Agreement then Franchisee and such assignee Entity shall affirmatively covenant to continue to satisfy each of the conditions set forth in Section 13.4.1 of this Agreement throughout the term of this Agreement.

## **ARTICLE 14 DEFAULT AND TERMINATION**

14.1 General. Franchisor shall have the right to terminate this Agreement upon notice to Franchisee upon the following circumstances and manners.

14.2 Automatic Termination Without Notice. Subject to Applicable Laws of the jurisdiction in which the Licensed Restaurant operated hereunder is located to the contrary, Franchisee shall be deemed to be in default under this Agreement, and all rights granted herein shall at Franchisor's election automatically terminate immediately upon notice to Franchisee if: (i) Franchisee shall be adjudicated bankrupt or judicially determined to be insolvent (subject to any contrary provisions of any applicable state or federal laws), shall admit to its inability to meet its financial obligations as they become due, or shall make a disposition for the benefit of its creditors; (ii) Franchisee shall allow a judgment against him in the amount of more than \$25,000 to remain unsatisfied for a period of more than 30 days (unless a supersedes or other appeal bond has been filed); (iii) the Licensed

Restaurant, the Premises or the Franchisee's assets are seized, taken over or foreclosed by a government official in the exercise of its duties, or seized, taken over, or foreclosed by a creditor or lienholder provided that a final judgment against the Franchisee remains unsatisfied for 30 days (unless an appeal bond has been filed); (iv) a levy of execution of attachment has been made upon the license granted by this Agreement or upon any property used in the Licensed Restaurant, and it is not discharged within 5 days of such levy or attachment; (v) Franchisee permits any recordation of a notice of mechanics lien against the Licensed Restaurant or any equipment at the Licensed Restaurant which is not released within 60 days unless Franchisee post a bond in an amount sufficient to satisfy the mechanics lien, or if any person commences any action to foreclose on the Licensed Restaurant or said equipment; (vi) Franchisee allows or permits any judgment to be entered against Franchisor or any of its Affiliates, arising out of or relating to the operation of the Licensed Restaurant; or (vii) a condemnation or transfer in lieu of condemnation has occurred.

14.3 Option to Terminate Without Opportunity to Cure. Franchisee shall be deemed to be in default and Franchisor may, at its option, terminate this Agreement and all rights granted hereunder, without affording Franchisee any opportunity to cure the default, effective immediately upon receipt of notice by Franchisor upon the occurrence of any of the following events:

14.3.1 Abandonment. If Franchisee shall abandon the Licensed Restaurant. For purposes of this Agreement, "abandon" shall refer to (i) Franchisee's failure, at any time during the term of this Agreement, to keep the Premises or Licensed Restaurant open and operating for business for a period of 3 consecutive days, except for closure to remodel the Licensed Restaurant or as otherwise provided in the Manuals, (ii) Franchisee's failure to keep the Premises or Licensed Restaurant open and operating for any period after which it is not unreasonable under the facts and circumstances for Franchisor to conclude that Franchisee does not intend to continue to operate the Licensed Restaurant, unless such failure to operate is due to Force Majeure (subject to Franchisee's continuing compliance with this Agreement), (iii) failure to actively and continuously maintain and answer the telephone listed by Franchisee for the Licensed Restaurant solely with the "GYU-KAKU" name (as the same may be modified in accordance with this Agreement); (iv) the withdrawal of permission from the applicable landlord that results in Franchisee's inability to continue operation of the Licensed Restaurant; or (v) closing of the Licensed Restaurant required by Applicable Law if such closing was not the result of a violation of this Agreement by Franchisor.

14.3.2 Assignment, Death or Incapacity. If Franchisee shall purport to make any Assignment without the prior written consent of Franchisor; provided, however, that if the Licensed Restaurant continues to be operated in conformity with this Agreement (i) upon prompt written request and upon the death or legal incapacity of a Franchisee who is an individual, Franchisor shall allow up to six months after such death or legal incapacity for the heirs, personal representatives, or conservators (the "Heirs") of Franchisee either to enter into a new Franchise Agreement upon Franchisor's then current form (except that no initial franchise fee or transfer fee shall be charged), if Franchisor is subjectively satisfied that the Heirs meet Franchisor's standards and qualifications (with the exception of Franchisor's financial requirements for new franchisees, which requirements will not apply under the circumstances contemplated in this Section 14.3.2), or if not so satisfied to allow the Heirs to sell the Licensed Restaurant to a person approved by Franchisor, or (ii) upon prompt written request and upon the death or legal incapacity of an Owner owning 10% or more of the Equity or voting power of a corporate or limited liability company Franchisee, or a general or limited partner owning 10% or more of any of the Partnership Rights of a Franchisee which is a Partnership, Franchisor shall allow a period of up to six months after such death or legal incapacity for the Heirs to seek and obtain Franchisor's consent to the transfer or Assignment of such shares, membership interests or Partnership Rights to the Heirs or to another person acceptable by Franchisor. If, within said six-month period, the Heirs fail either to enter into a new franchise agreement or to sell the Licensed Restaurant to a person approved by Franchisor pursuant to this Agreement or fail either to receive Franchisor's consent to the Assignment of such Equity to the Heirs or to another person acceptable by Franchisor, as provided in this Agreement, this Agreement shall thereupon automatically terminate.

14.3.3 Repeated Defaults. If Franchisee shall default in any obligation as to which Franchisee has previously received three or more written notices of default from Franchisor setting forth the default complained of within the preceding 36 months, such repeated course of conduct shall itself be grounds for termination of this Agreement without further notice or opportunity to cure.

14.3.4 Misrepresentation. If Franchisee makes any material misrepresentations in connection with the execution of this Agreement or the acquisition of the Licensed Restaurant.

specificity; provided, that if the default is such that it cannot be reasonably cured within such 30 day period but can be reasonably cured within 180 days, Franchisor shall not be deemed in default for so long as it commences to cure such default within 30 days and diligently continues to prosecute such cure to completion. This is a material term of this Agreement, and an arbitrator shall not, and shall not have the power or authority to, waive, modify or change this requirement in any arbitration proceeding or otherwise. If Franchisee terminates this Agreement pursuant to this Section, Franchisee shall comply with all of the terms and conditions of Article 15 of this Agreement.

14.8 Recovery of Lost Continuing Royalty. If this Agreement is terminated because of Franchisee's material breach, based on the estimated time it takes for a replacement Licensed Restaurant to achieve a similar revenue stream, in addition to any other damages or relief, Franchisor may recover liquidated damages equal to the amount of the Continuing Royalty paid by Franchisee (i) during the 24 months prior to the date this Agreement was terminated, or (ii) if the Opening Date is less than 24 months before the termination date, the time since the Opening Date.

## **ARTICLE 15 RIGHTS AND OBLIGATIONS UPON TERMINATION**

15.1 General. Upon the expiration or termination of Franchisee's rights granted under this Agreement:

15.1.1 Franchisee shall immediately cease to use all Trade Secrets, the Marks, and any confusingly similar trademark, service mark, trade name, logotype, or other commercial symbol or insignia. Franchisee shall immediately return the Manual, all training materials, CD ROMs, DVDs, records, customer lists, files, advertising and promotional materials and all other written materials incorporating Trade Secrets and all copies of the whole or any part thereof to Franchisor. Franchisee shall at its own cost, make cosmetic changes to the Licensed Restaurant so that it no longer contains or resembles Franchisor's proprietary designs, including: Franchisee shall remove all materials that would identify the Premises and Location as a Licensed Restaurant operated under the Marks and System, and remove distinctive cosmetic features and finishes, interior wall coverings and colors, exterior finishes and colors and signage from the Premises and Location as Franchisor may reasonably direct and shall, at Franchisor's request, grant Franchisor access to the Premises to make cosmetic changes to the Licensed Restaurant so that it no longer resembles a Licensed Restaurant.

15.1.2 Upon any termination or expiration of this Agreement, if Franchisee has then executed an agreement to sell to a third-party purchaser all of the assets of the Licensed Restaurant, including the leasehold interest and equipment and furnishings, Franchisee must offer to Franchisor a right of first refusal to purchase the assets proposed to be transferred, on the same terms and conditions offered by the third party; provided that Franchisor may substitute cash for any non-cash consideration proposed to be given by such third party (in an amount determined by Franchisor reasonably and in good faith as the approximate equivalent value of said non-cash consideration); and provided further that Franchisee shall make representations and warranties to Franchisor customary for transactions of the type proposed. If Franchisor elects to exercise its rights to purchase these assets, Franchisor or its nominee, as applicable, shall send written notice of such election to Franchisee within 20 days of receipt of Franchisee's request. If Franchisor accepts such offer, the closing of the transaction shall occur within 30 days following the date of Franchisor's acceptance. Any material change in the terms of an offer prior to closing (or the failure to close the transaction within 30 days following the written notice provided by Franchisee) shall cause it to be deemed a new offer, subject to the same right of first refusal by Franchisor, ~~or its third-party designee,~~ as in the case of the initial offer. If Franchisee has not then executed an agreement to sell the equipment and furnishings at the Licensed Restaurant to a third-party purchaser at the time of termination or expiration of this Agreement, Franchisor may elect, at its sole option, to purchase, and Franchisee must then sell to Franchisor all assets of the Licensed Restaurant at their net book value based on the following values for specified classes of assets depreciated from the date of original purchase: (i) building construction and other leasehold improvements – 20 year depreciation life, (ii) furniture and fixtures - 15 year depreciation life, (iii) restaurant equipment - 10 year depreciation life, (iv) POS System, Computer System, telephones and small wares – five year depreciation life, and (v) all food and beverage inventory at current cost. Franchisor shall have no other payment obligations to Franchisee, and Franchisee specifically acknowledges that all goodwill associated with the terminated Licensed Restaurant is owned exclusively by Franchisor. Franchisor may offset against any obligations it may have pursuant to this Section 15.1.2 any amounts owed by Franchisee to Franchisor.

15.1.3 Franchisor may retain all fees paid pursuant to this Agreement, and Franchisee shall immediately pay any and all amounts owing to Franchisor, its Affiliates, and/or suppliers.

15.1.4 Any and all obligations of Franchisor to Franchisee under this Agreement shall immediately cease and terminate.

15.1.5 Any and all rights of Franchisee under this Agreement shall immediately cease and terminate, and Franchisee shall immediately cease and thereafter refrain from representing itself as a Franchisee or other Affiliate of Franchisor.

15.1.6 Franchisee shall transfer and assign to Franchisor or its designee all telephone numbers, city on-line telephone listings and all other associated listings for the Licensed Restaurant, and Franchisee shall notify the telephone company and all listing agencies of the termination or expiration of Franchisee's right to use any telephone number and any classified or other telephone directory listings associated with the Licensed Restaurant, and authorize and instruct their transfer to Franchisor. Franchisee shall deliver all goods and materials containing the Marks to Franchisor and Franchisor shall have the sole and exclusive use of any items containing the Marks. Franchisee is not entitled to any compensation from Franchisor if Franchisor exercises this option.

15.1.7 If Franchisor shall have authorized Franchisee to use the Marks, or any of them in connection with the Internet, any website, or e-mail address, Franchisee shall cancel or assign to Franchisor or its designate, as Franchisor determines, all of Franchisee's right, title and interest in any Internet websites or web pages, e-mail addresses, domain name listings and registrations which contain the Marks, or any of them, in whole or in part, and Franchisee shall notify VeriSign (Network Solutions), register.com, or other applicable domain name registrar and all listing agencies, upon the termination or expiration hereof, of the termination of Franchisee's right to use any domain name, web page and other Internet device associated with Franchisor or the Licensed Restaurant, and authorize and instruct their cancellation or transfer to Franchisor, as directed by Franchisor. Franchisee is not entitled to any compensation from Franchisor if Franchisor exercises its said rights or options. For the avoidance of doubt, nothing in this Section shall be deemed to permit Franchisee to use the Marks, or any of them in connection with the Internet, except with the prior consent of Franchisor as provided in this Agreement.

15.2 Survival of Obligations. Termination or expiration shall be without prejudice to any other rights or remedies that Franchisor or Franchisee, as the case may be, shall have in law or in equity, including the right to recover benefit of the bargain damages. In no event shall a termination or expiration of this Agreement affect Franchisee's obligations to take or abstain from taking any action in accordance with this Agreement. The provisions of this Agreement which by their nature or expressly constitute post-termination (or post-expiration) covenants and agreements including the obligation of Franchisor and Franchisee to arbitrate any and all disputes shall survive the termination or expiration of this Agreement.

15.3 No Ownership of Marks. Franchisee acknowledges and agrees that rights in and to the Marks and the use thereof shall be and remain the property of Franchisor.

15.4 Government Filings. In the event Franchisee has registered any of the Marks or the name "GYU-KAKU" as part of Franchisee's assumed, fictitious or corporate name, Franchisee shall promptly amend such registration to delete the Marks and any confusingly similar marks or names therefrom.

## **ARTICLE 16 INSURANCE**

16.1 Insurance. Franchisee shall obtain and maintain (at all times during the Term) insurance coverage in the types and amounts of coverage and deductibles specified in the Manuals which shall in each instance designate Franchisor and its designated Affiliates as additional named insureds, with an insurance company approved by Franchisor, which approval shall not be unreasonably withheld. Upon the obtaining of such insurance, Franchisee shall promptly provide to Franchisor proof of such insurance coverage and/or at such other times upon the request of Franchisor.

16.2 Use of Proceeds. In the event of damage to the Licensed Restaurant covered by insurance, the proceeds of any such insurance shall be used to restore the Licensed Restaurant to its original condition as soon as possible, unless such restoration is prohibited by the Location Lease or Franchisor has otherwise consented to in writing.

16.3 Proof of Insurance. Franchisee shall, prior to opening the Licensed Restaurant, ~~(and from time to time, within 10 days after a request therefor from Franchisor,~~ and annually thereafter (or within 10 days after an

| earlier request from Franchisor) provide evidence of the renewal or extension of each insurance policy) file with Franchisor, certificates of such insurance and shall promptly pay all premiums on the policies as they become due. In addition, the policies shall contain a provision requiring 30 days prior written notice to Franchisor of any proposed cancellation, modification, or termination of insurance. If Franchisee fails to obtain and maintain the required insurance, Franchisor may, at its option, in addition to any other rights it may have, procure such insurance for Franchisee upon prior written notice and Franchisee shall pay, upon demand, the premiums and Franchisor's costs in taking such action.

## **ARTICLE 17 RELATIONSHIP OF PARTIES, DISCLOSURE**

17.1 Relationship of Franchisee to Franchisor. It is expressly agreed that the parties intend by this Agreement to establish between Franchisor and Franchisee the relationship of franchisor and franchisee. It is further agreed that Franchisee has no authority to create or assume in Franchisor's name or on behalf of Franchisor, any obligation, express or implied, or to act or purport to act as agent or representative on behalf of Franchisor for any purpose whatsoever. Neither Franchisor nor Franchisee is the employer, employee, agent, partner or co-venturer of or with the other, each being independent. Franchisee agrees that it shall not under any circumstances hold itself out as the agent, representative, employee, partner or co-venturer of Franchisor. All employees hired by or working for Franchisee shall be the employees of Franchisee and shall not, for any purpose, be deemed employees of Franchisor or subject to Franchisor control. Each of the parties shall file its own tax, regulatory and payroll reports with respect to its respective employees and operations, saving and indemnifying the other party hereto of and from any liability of any nature whatsoever by virtue thereof. Neither shall have the power to bind or obligate the other except specifically as set forth in this Agreement. Franchisor and Franchisee agree that the relationship created by this Agreement is one of independent contractor and not a fiduciary relationship.

### 17.2 Indemnity.

17.2.1 Franchisee shall protect, defend and indemnify Franchisor, and all of its Owners, Affiliates, officers, directors, employees, lawyers, agents and designees, and each of them, and hold them harmless from and against any and all costs and expenses, including legal fees, court costs, losses, liabilities, damages, claims and demands of every kind or nature on account of any actual or alleged loss, injury or damage to any person or Entity or to any property arising out of or in connection with Franchisee's development, construction (including any latent or patent defects), maintenance or operation of the Premises and the Licensed Restaurant, except to the extent caused by Franchisor's intentional misfeasance, gross negligence or material default of its obligations under this Agreement.

17.2.2 Franchisor shall protect, defend and indemnify Franchisee, and all of its Owners, Affiliates, officers, directors, employees and attorneys and each of them, from any liability or damage any of them may incur, including reasonable attorneys' fees, as a result of claims, demands, costs, or judgments of any kind or nature, arising out of Franchisor's intentional misfeasance, gross negligence or material breach of its obligations under this Agreement, except to the extent caused by the intentional misfeasance, gross negligence or material breach by Franchisee (or any of its said Owners, Affiliates, officers, directors, employees or attorneys) of obligations under this Agreement.

17.2.3 Each party entitled to indemnification hereunder shall give the indemnifying party prompt written notice of any claim for which the indemnified party demands indemnity (provided that such obligation shall not constitute a condition to the indemnifying party's indemnification obligation unless the indemnifying party has been materially harmed by such delay). Franchisor shall retain the full right and power to direct, manage, control and settle the litigation of any claim. Each indemnified party shall submit all indemnifiable claims to its insurers in a timely manner. Any payments made by an indemnified party shall be net of benefits received by any indemnified party on account of insurance in respect of such claims.

## **ARTICLE 18 DISPUTE RESOLUTION**

### 18.1 Initial Steps to Resolve a Dispute; Mediation.

18.1.1 Franchisor and Franchisee have begun a long-term franchise relationship which gives rise to an obligation, subject to and consistent with the terms of this Agreement, to endeavor to make the relationship

that the arbitrator will not have the right to declare any Mark generic or otherwise invalid or to award punitive damages. If either party fails to appear or participate in the arbitration proceeding, the other party will be entitled to a default judgment award. The arbitration award will be final and binding on the parties, and judgment on the award may be entered in any federal or state court having jurisdiction.

18.2.4 TO THE MAXIMUM EXTENT PERMITTED BY LAW, ALL CLAIMS BROUGHT UNDER THIS AGREEMENT WILL BE BROUGHT IN AN INDIVIDUAL CAPACITY. THIS AGREEMENT MAY NOT BE CONSTRUED TO ALLOW OR PERMIT THE CONSOLIDATION OR JOINDER OF OTHER CLAIMS OR CONTROVERSIES INVOLVING ANY OTHER FRANCHISEES, OR PERMIT SUCH CLAIMS OR CONTROVERSIES TO PROCEED AS A CLASS ACTION, CLASS ARBITRATION, COLLECTIVE ACTION, OR ANY SIMILAR REPRESENTATIVE ACTION. NO ARBITRATOR WILL HAVE THE AUTHORITY UNDER THIS AGREEMENT TO ORDER ANY SUCH CLASS OR REPRESENTATIVE ACTION. BY SIGNING BELOW, FRANCHISEE ACKNOWLEDGES FRANCHISEE IS AGREEING TO WAIVE ANY SUBSTANTIVE OR PROCEDURAL RIGHTS THAT FRANCHISEE MAY HAVE TO BRING AN ACTION ON A CLASS, COLLECTIVE, REPRESENTATIVE OR OTHER SIMILAR BASIS. ACCORDINGLY, FRANCHISEE EXPRESSLY AGREES TO WAIVE ANY RIGHT FRANCHISEE MAY HAVE TO BRING AN ACTION ON A CLASS, COLLECTIVE, REPRESENTATIVE OR OTHER SIMILAR BASIS.

18.2.5 TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE PARTIES WAIVE ANY AND ALL RIGHTS THEY MAY HAVE TO SEEK PUNITIVE DAMAGES FROM ONE ANOTHER. ACCORDINGLY, THE ARBITRATOR WILL HAVE NO POWER TO ASSESS PUNITIVE DAMAGES AGAINST EITHER PARTY.

18.2.6 This arbitration provision is deemed to be self-executing and will remain in full force and effect after expiration or termination of this Agreement. If either party fails to appear at any properly noticed arbitration proceeding, an award may be entered against such party by default or otherwise notwithstanding said failure to appear.

18.2.7 The provisions of this section 18.2 are intended to benefit and bind certain third-party non-signatories and will continue in full force and effect subsequent to and notwithstanding the expiration or termination of this Agreement. Furthermore, this section 18.2 will be construed as independent of any other covenant or provision of this Agreement; provided, however, that if a court of competent jurisdiction determines that any of such provisions are unlawful in any way, the court is respectfully requested to modify or interpret such provisions to the minimum extent necessary to comply with the law.

[Franchisor's Initials: \_\_\_\_\_ Franchisee's Initials: \_\_\_\_\_]

18.3 Injunctive Relief. Franchisor shall be entitled to immediate equitable remedies including, but not limited to, mandatory orders and injunctive relief in order to safeguard its Trade Secrets (including, without limitation, its proprietary, confidential, unique and special information) and that breach of such terms of this Agreement would cause irreparable harm to Franchisor. Also, any party has the right in a proper case to obtain temporary restraining orders and temporary or preliminary injunctive relief from a court of competent jurisdiction, without the necessity of first complying with sections 18.1 or 18.2 above and without the necessity of posting any bond, and if bond is nevertheless required by a court of competent jurisdiction, the parties agree that the sum of \$1,000 will be sufficient bond (this amount may be adjusted by changes in the Consumer Price Index since the Effective Date). Franchisee acknowledges that it is one of many licensed franchisees using the Marks and that failure on its part to comply fully with any of the terms of this Agreement respecting the foregoing obligations regarding examinations, audits and the Marks could cause irreparable damage to Franchisor or other Gyu-Kaku Restaurants. If an arbitration proceeding has commenced pursuant to section 18.2 above, then the party seeking such injunctive relief agrees to contemporaneously submit the merits of its dispute to the arbitrator. This covenant is independent, severable and enforceable notwithstanding any other rights or remedies that any party may have.

18.4 Legal Fees and Expenses. If any party to this Agreement shall bring any arbitration, action or proceeding for any relief against the other, declaratory or otherwise, arising out of this Agreement, the losing party shall pay to the prevailing party a reasonable sum for legal fees and costs incurred in bringing or defending such arbitration, action or proceeding and/or enforcing any judgment granted therein, all of which shall be deemed to have accrued upon the commencement of such arbitration, action or proceeding. Any judgment or order entered in such action or proceeding shall contain a specific provision providing for the recovery of attorney fees and costs, separate from the judgment, incurred in enforcing such judgment. The prevailing party shall be determined by the trier of fact. For the purposes of this Section, attorney fees shall include fees incurred in the following: (i) post-

### **EXHIBIT 3 - GUARANTEE OF FRANCHISE AGREEMENT**

In consideration of, and as an inducement to, the execution of that certain Franchise Agreement (the "Agreement") with Reins USA Franchise Company, Inc. ("Franchisor") of even date herewith, the undersigned hereby personally and unconditionally: (1) guarantees to Franchisor and its successors and assigns, for the term of the Agreement and thereafter as provided in the Agreement, that \_\_\_\_\_ ("Franchisee") shall punctually pay and perform each and every undertaking, agreement and covenant set forth in the Agreement; and (2) agrees to be personally bound by and personally liable for the breach of each and every provision in the Agreement, including but not limited to monetary obligations.

If Franchisee is an entity with a net worth of \$1,000,000 or more, as verified by its financial statement submitted to Franchisor, and for so long as the Franchisee entity maintains its net worth at that level or above, this guarantee need only be signed by the Franchisee entity, and no corresponding written guarantee will be required of Franchisee's Owners. However, if the net worth of the Franchisee entity falls below \$1,000,000, immediately upon Franchisor's written request ~~therefor~~, each of Franchisee's Owners would have to sign this form of guarantee and be individually obligated hereunder.

Each of the undersigned waives: (1) acceptance and notice of acceptance by Franchisor of the foregoing undertakings; (2) notice of demand for payment of any indebtedness or non-performance of any obligation hereby guaranteed; (3) protest and notice of default to any party with respect to the indebtedness or nonperformance of any obligation hereby guaranteed; and (4) 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.

Each of the undersigned consents and agrees that: (1) his or her liability under this guarantee shall be joint and several; (2) he or she shall render any payment or performance required under the Agreement upon demand if Franchisee fails or refuses punctually to do so; (3) he or she will individually comply with all the provisions and subsections of the Agreement and any renewals and amendments thereto; (4) such a liability shall not be contingent or conditioned upon pursuit by Franchisor of any remedies against Franchisee or any other person; and (5) such a liability shall not be diminished, relieved or otherwise affected by any extension of time, credit or other indulgence which Franchisor may, from time to time, grant to Franchisee 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 shall, in any way, modify or amend this guarantee which shall be continuing and irrevocable.

If any provision of this guarantee is deemed to be invalid or inoperative, for any reason, that part shall be deemed modified to the extent necessary to make it valid and operative, or if it cannot be so modified, then severed, and the remainder of the guarantee shall continue in full force and effect as if it had been executed and entered into with the invalid portions so modified or eliminated.

This guarantee may be executed and delivered by facsimile, email with scanned attachment or any electronic signature complying with the U.S. federal ESIGN Act of 2000 (including DocuSign) and, upon such execution and delivery, will have the same force and effect as an original.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each of the undersigned has affixed his/her signature, to be effective on the same day and year as the executed Agreement:

GUARANTORS:

\_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

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

\_\_\_\_\_

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

***THE FINANCIAL STATEMENTS FOLLOWING THIS PAGE ARE UNAUDITED.*** PROSPECTIVE FRANCHISEES OR SELLERS OF FRANCHISES ARE HEREBY ADVISED THAT NO CERTIFIED PUBLIC ACCOUNTANT HAS AUDITED THESE FIGURES OR EXPRESSED THEIR OPINION WITH REGARD TO THE CONTENT OR FORM.

REINS USA FRANCHISE COMPANY, INC.

Balance Sheets

**September 30, 2025**

**CURRENT ASSETS**

|                                        |    |                   |
|----------------------------------------|----|-------------------|
| Cash and cash equivalent               | \$ | 63,914            |
| Accounts Receivables                   | \$ | 1,616,777         |
| Due from Affiliates                    | \$ | 29,097,362        |
| Prepaid expense & other current assets | \$ | 511,174           |
| <b>Total Current Assets</b>            | \$ | <b>31,289,227</b> |

**NON-CURRENT ASSETS**

|                                     |    |          |
|-------------------------------------|----|----------|
| Property, plant, and equipment, net | \$ | -        |
| <b>Total Non-Current Assets</b>     | \$ | <b>-</b> |

|                     |    |                   |
|---------------------|----|-------------------|
| <b>TOTAL ASSETS</b> | \$ | <b>31,289,227</b> |
|---------------------|----|-------------------|

**CURRENT LIABILITIES**

|                                       |    |                  |
|---------------------------------------|----|------------------|
| Accounts Payables                     | \$ | 164,844          |
| Due to affiliates                     | \$ | 2,036,132        |
| Accrued expense and other liabilities | \$ | 89,709           |
| Income taxes payable                  | \$ | 5,394,717        |
| <b>Total Current Liabilities</b>      | \$ | <b>7,685,402</b> |

**NON-CURRENT LIABILITIES**

|                                      |    |                |
|--------------------------------------|----|----------------|
| Deferred Revenue                     | \$ | 786,315        |
| <b>Total Non-Current Liabilities</b> | \$ | <b>786,315</b> |

|                          |    |                  |
|--------------------------|----|------------------|
| <b>TOTAL LIABILITIES</b> | \$ | <b>8,471,716</b> |
|--------------------------|----|------------------|

**EQUITY**

|                     |    |                   |
|---------------------|----|-------------------|
| Common Stock        | \$ | 50,000            |
| Retained Earnings   | \$ | 22,767,510        |
| <b>Total Equity</b> | \$ | <b>22,817,510</b> |

|                                     |    |                   |
|-------------------------------------|----|-------------------|
| <b>TOTAL LIABILITIES AND EQUITY</b> | \$ | <b>31,289,227</b> |
|-------------------------------------|----|-------------------|

**REINS USA FRANCHISE COMPANY, INC.**  
**Statements of Earnings and Retained Earnings**  
**9 months ended September 30, 2025**

**9/30/2025**

**SALES**

|                       |    |           |
|-----------------------|----|-----------|
| Franchise revenues    | \$ | 3,821,391 |
| Miscellaneous revenue | \$ | -         |
| Total Net Sales       | \$ | 3,821,391 |

**OPERATING EXPENSES**

|                                               |    |           |
|-----------------------------------------------|----|-----------|
| Selling, general, and administrative expenses | \$ | 1,463,224 |
| <b>OPERATING INCOME (LOSS)</b>                | \$ | 2,358,167 |

|                                          |    |           |
|------------------------------------------|----|-----------|
| Other income                             | \$ | 12,575    |
| Other expense                            | \$ | 88,690    |
| <b>EARNINGS (LOSS) BEFORE INCOME TAX</b> | \$ | 2,282,052 |

|                            |    |           |
|----------------------------|----|-----------|
| Income tax provision       | \$ | -         |
| <b>NET EARNINGS (LOSS)</b> | \$ | 2,282,052 |

|                                        |    |            |
|----------------------------------------|----|------------|
| Retained earnings, beginning of period | \$ | 20,485,458 |
| Retained earnings, end of period       | \$ | 22,767,510 |