

## FRANCHISE DISCLOSURE DOCUMENT



Taco Pros International LLC  
An Illinois limited liability company  
2200 Stonington Ave, Suite 260  
Hoffman Estates, IL 60169-2067  
[www.tacopros.com](http://www.tacopros.com)  
[bhagyesh@mbpenterprise.com](mailto:bhagyesh@mbpenterprise.com)

You will own and operate a Taco Pros Restaurant that offers for sale to the general public a variety of tacos, burritos, tortas, rice, a variety of vegetarian and non-vegetarian Mexican foods, beverages, and related food products, using the service marks and trade secrets owned by or licensed to Taco Pros International LLC.

The total investment necessary to begin operation of a typical Taco Pros Restaurant is from \$456,500 to \$583,600. This includes \$35,000 that must be paid to the franchisor or affiliate. If you want development rights, you must pay us \$35,000, which is equal to the initial franchise fee of \$35,000 for the first Taco Pros Restaurant you commit to develop, and you must also pay us a reservation fee equal to \$12,500 (being one half of our discounted initial franchise fee) multiplied by the number of Taco Pros Restaurants you commit to develop under the Development Agreement beyond the first Taco Pros Restaurant.

This Franchise Disclosure Document summarizes certain provisions of your Franchise Agreement and other information in plain English. Read this Franchise Disclosure Document and all accompanying agreements carefully. You must receive this Franchise 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 Franchise Disclosure Document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact Mr. Bhagyesh Patel at Taco Pros International LLC, 2200 Stonington Ave, Suite 260, Hoffman Estates, Illinois 60169-2067, (630) 767-9812.

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

Buying a franchise is a complex investment. The information in this Franchise 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 Franchise 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 visit the FTC's home page at [www.ftc.gov](http://www.ftc.gov) for additional information. Call your state agency or visit your public library for other sources of information on franchising.

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

Issuance date: April 30, 2023.

## How to Use This Franchise Disclosure Document

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

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

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

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

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

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

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

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

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

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

## **Some States Require Registration**

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

## Special Risks to Consider About *This* Franchise

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

1. **Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor by arbitration and/or litigation only in Illinois. Out-of-state arbitration or litigation may force you to accept a less favorable settlement for disputes. It may cost more to arbitrate or litigate with the franchisor in Illinois than in your own state.
2. **Spousal Liability.** Your spouse must sign a document that makes your spouse liable for financial obligations under the Franchise Agreement, even if your spouse has no ownership interest in the franchise. This Guarantee will place both you and your spouse's marital and personal assets (perhaps including your house) at risk if your franchise fails.
3. **Financial Condition.** The Franchisor's financial condition as reflected in its financial statements (see Item 21) calls into question the Franchisor's financial ability to provide services and support to you.
4. **Supplier Control.** You must purchase all or nearly all of the inventory & supplies necessary to operate your business from Franchisor, its affiliates, or from suppliers that Franchisor designates at prices that the Franchisor or they set. These prices may be higher than prices you could obtain elsewhere for the same or similar goods. This may reduce the anticipated profit of your franchised business.
5. **Short Operating History.** The Franchisor is at an early stage of development and has a limited operating history. This franchise is likely to be a riskier investment than a franchise when a longer operating history.

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

**The State of Michigan requires us to include the following notice in the Franchise Disclosure Document:**

**The State of Michigan prohibits certain unfair provisions that are sometimes in franchise documents. If any of the following provisions are in these franchise documents, the provisions are void and cannot be enforced against you:**

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

- (i) The failure of the proposed transferee to meet the franchisor's then-current reasonable qualifications or standards.
  - (ii) The fact that the proposed transferee is a competitor of the franchisor or subfranchisor.
  - (iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.
  - (iv) The failure of the franchisee or proposed transferee to pay any sums owing to the franchisor or to cure any default in the franchise agreement existing at the time of the proposed transfer.
- (h). A provision that requires the franchisee to resell to the franchisor items that are not uniquely identified with the franchisor. This subdivision does not prohibit a provision that grants to franchisor a right of first refusal to purchase.
- (i) A provision which permits the franchisor to directly or indirectly convey, assign, or otherwise transfer its obligations to fulfill contractual obligations to the franchisee unless provision has been made for providing the required contractual services.

**The fact that there is a notice of this offering on file with the attorney general does not constitute approval, recommendation, or endorsement by the attorney general.**

Any questions regarding this notice should be directed to the Consumer Protection Division, G. Mennen Williams Building, 1<sup>st</sup> Floor, Lansing, Michigan 48913, Telephone (517) 373-7117.

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## **ITEM 1**

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

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

Taco Pros International LLC, formerly known as Taco Bros LLC (referred to in this Franchise Disclosure Document as “Taco Pros,” “franchisor,” “we,” “us,” or “our” and where the context requires, also includes our affiliates), was organized as an Illinois limited liability company on May 23, 2022. Our principal place of business is 2200 Stonington Ave, Suite 260, Hoffman Estates, Illinois 60169-2067. We do business under our corporate name and the Marks (defined below). In this Franchise Disclosure Document, we refer to the person or entity that will be signing the Franchise Agreement (defined below) as “you,” “your,” or “franchisee,” which includes all franchise owners and partners if you are a corporation, limited liability company, partnership or other entity.

We do not currently operate any Mexican Restaurant businesses of the type being franchised. However, our affiliates listed on **Exhibit J**, currently own and operate 4 Taco Pros Restaurants which are similar to the franchise offered under this Franchise Disclosure Document. We refer to these affiliate-owned restaurants as “Company-Owned Restaurants” in this Franchise Disclosure Document. We began offering franchises in June of 2022.

Our affiliate, Eggholic International, LLC (“Eggholic”), sells franchises for the operation of restaurants under the name “Eggholic,” which offer a variety of egg dishes, grilled sandwiches, rice, vegetarian, non-vegetarian Indian street food and other approved menu items. Eggholic was organized in February of 2020 and began offering franchises in July of 2020. Eggholic’s principal place of business is 2200 Stonington Avenue, Suite #260, Hoffman Estates, Illinois 60169. As of December 31, 2021 Eggholic had 2 franchised and 2 company-owned restaurants operated by our owners, individually or through entities in which they own an interest. Other than Eggholic, no affiliate has offered franchises for this business or any other lines of business.

Our agents for service of process are listed in **Exhibit H**.

#### **Description of Franchise**

We offer franchisees the right to develop and operate restaurants operating under the name “Taco Pros,” which offer taco, burritos, tortas, a variety of Mexican dishes, rice, beverages, and related food products (a “**Restaurant**”). The typical Taco Pros Restaurant will include dining facilities. All Taco Pros Restaurants must provide delivery service.

Restaurants operate under the trade name and mark “Taco Pros,” and any additional principal service marks, trademarks, trade names, logos, emblems and indicia of origin identified in Item 13. These principal marks and all other marks which may be designated by us in the future for use with the System (defined below) are referred to in this Franchise Disclosure Document as the “**Marks**.” We operate in part under an Exclusive License Agreement with Chicago Taco Brothers LLC, which grants us the right to use and sublicense certain service marks. The license was granted in 2022 and its initial 10-year term may be extended by us for additional consecutive terms of 10 years each.

We formerly operated under the name Taco Bros. As of May 2022, we operate under the name Taco Pros.

Restaurants are established and operated under a comprehensive system (the “**System**”) that includes distinctive signage, interior and exterior design, décor and color scheme, special recipes and menu items, including proprietary products and ingredients; uniform standards, specifications, and procedures for operations; quality and uniformity of products and services offered; inventory, management and financial control procedures (including point-of-sale and tracking systems); training and assistance; and advertising and promotional programs; all of which we may change, and further develop, in our discretion. Certain aspects of the System are more fully described in this Franchise Disclosure Document and the Manual (defined in Item 11), all of which may evolve over time.

### **Franchise Agreement**

We offer the right to develop and operate a Restaurant at a specific location under the terms of a single unit franchise agreement (the “**Franchise Agreement**”). A copy of the Franchise Agreement is attached as **Exhibit B** to this Franchise Disclosure Document. You may enter into the Franchise Agreement as an individual, corporation, limited liability company, partnership or other form of legal entity under your control. Under the Franchise Agreement and this Franchise Disclosure Document, certain parties are characterized as “Owners.” The Franchise Agreement is signed by us, you and your Owners. By signing the Franchise Agreement, your Owners agree to personally guarantee performance of the terms of the Franchise Agreement, and agree to become individually bound by certain obligations, including all monetary obligations and the confidentiality and non-competition covenants (see Item 15). Depending on the type of business activities which you or your Owners may be involved, we will require you or your Owners to sign additional confidentiality and non-competition agreements.

You must designate a General Manager who will be the main individual responsible for operating your Restaurant. We recommend that an Owner who has the minimum General Manager qualifications set forth in the Franchise Agreement act as the General Manager or, in the event an Owner does not have the required qualifications, that you include an experienced restaurant operator as an equity partner in your Restaurant.

### **Area Development Agreement**

Under certain circumstances, we may offer you the right to sign an area development agreement (“**Area Development Agreement**”), which would grant you the right to develop more than one Restaurant. A copy of the Area Development Agreement is attached as **Exhibit C** to this Franchise Disclosure Document. The Area Development Agreement will specify the geographic territory within which you will open and operate Restaurants, the number of Restaurants to be developed, and the schedule for developing the Restaurants. You must execute a separate Franchise Agreement for each Restaurant established under an Area Development Agreement. The Franchise Agreement for the first two Restaurants to be developed under the Area Development Agreement will be in the form attached as **Exhibit B** to this Franchise Disclosure Document. For each additional Restaurant you develop under an Area Development Agreement, you must sign the form of Franchise Agreement that we are then offering to new franchisees. The size of your territory will be determined by us and will vary depending upon a number of factors, including local market conditions and the number of Restaurants to be developed. The person or entity signing the Area Development Agreement is referred to as the “**Area Developer**.”

### **Area Representative Program**

In a separate disclosure document, we may offer to persons who own or will own a Taco Pros Restaurant and meet our qualifications the opportunity to become a Taco Pros area representative (an “**Area Representative**”) and operate an area representative business (“**Area Representative Business**”).

Area Representative Businesses solicit and screen prospective franchisees for the right to own and operate Taco Pros Restaurants under Franchise Agreements which are between us and the franchisee (the Area Representative is not a party). Area Representative Businesses assist us in providing full support and rendering certain services to franchisees within the Area Representative's territory, including making the Area Representative Business' franchised Taco Pros Restaurant available for training franchisees and their employees; overseeing the development and construction process for franchised Taco Pros Restaurants and conducting regular consultation meetings with franchisees in the Area Representative's territory. The Area Representative Business also renders certain services directly to us, including delivery of annual business plans; audit reports of franchisees in the Area Representative's territory; regular reports of business activities; and other activities that we deem necessary from time to time. See Exhibit K for information regarding our Area Representatives.

### **Market and Competition**

The market for restaurants in general is well developed and intensely competitive. You will serve the general public and will compete with a variety of businesses, including locally-owned to regional and national chain restaurants, some of which may be franchise systems. The market for Mexican-style restaurants is very competitive and many have already established national and international brand recognition.

### **Industry Regulations**

The restaurant industry is heavily regulated. Many of the laws, rules and regulations that apply to business generally have particular applicability to restaurants. All Restaurants must comply with federal, state and local laws applicable to the operation and licensing of a restaurant business, including obtaining all applicable health permits and inspections and approvals by municipal, county or state health departments that regulate food service operations. The Americans with Disabilities Act of 1990 and state disability or equal access laws require readily accessible accommodations for disabled persons and, therefore, may affect your building construction, site elements, entrance ramps, doors, bathrooms, drinking facilities, etc. You should consider these laws and regulations when evaluating your purchase of a franchise.

You must comply with any federal, state, county, municipal and other local laws and regulations that may apply to your Restaurant. You should consult with an attorney concerning those and other local laws and ordinances that may affect the operation of your Restaurant. You must also obtain any applicable real estate permits (e.g., zoning), and operational permits and licenses. You will need to obtain a liquor license for the operation of the restaurant that allows for the service of beer and wine on-premise. It is incumbent on you to be familiar with the procedures, difficulty and cost associated with obtaining a license to sell liquor, the restrictions placed on the manner in which liquor may be sold, and the potential liability imposed by dram shop laws involving injuries, directly and indirectly, related to the sale of liquor and its consumption.

Among the licenses and permits you may need are zoning or land use approvals, Sunday sale permits, sales and use tax permits, special tax stamps, fire department permits, food establishment permits, health permits, alarm permits, county occupational permits, retail sales licenses and wastewater discharge permits. There may be other laws, ordinances, rules or regulations which affect your Restaurant, including without limitation, minimum wage and labor laws, FDA Menu Labeling Requirements, and ADA, OSHA and EPA rules and regulations. We recommend that you consult with your attorney for an understanding of these laws, ordinances, rules and regulations.

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

ServSafe is a food and beverage safety training program administered by the National Restaurant Association. Each of your managers and other employees we may designate must be ServSafe certified, and managers must be certified food managers under local and state laws.

The federal Clean Air Act and various state laws require certain state and local areas to meet national air quality standards limiting emissions of ozone, carbon monoxide and particulate matters, including caps on emissions from commercial food preparation. Some state and local governments have also adopted, or are considering proposals, that would regulate indoor air quality, including the limitation of smoking tobacco products in public places such as restaurants.

## **ITEM 2**

### **BUSINESS EXPERIENCE**

The officer who will have management responsibility in connection with the operation of franchises is:

Manager and Chief Executive Officer: Bhagyesh Patel

Bhagyesh Patel has been our Manager and Chief Executive Officer since our inception. He has also been the Manager of Chicago Taco Brothers LLC in Chicago, Illinois since March 2019.

## **ITEM 3**

### **LITIGATION**

No litigation is required to be disclosed in this Item.

## **ITEM 4**

### **BANKRUPTCY**

No bankruptcy is required to be disclosed in this Item.

## **ITEM 5**

### **INITIAL FEES**

#### **Franchise Agreement**

If you choose to develop and operate one Restaurant, you must execute a Franchise Agreement and pay us a nonrefundable initial franchise fee of \$35,000. The initial franchise fee is uniformly imposed on all franchisees.

### **Area Development Agreement**

If you wish to develop and operate multiple Restaurants within a certain geographic area, you may, at our discretion, sign an Area Development Agreement. Under an Area Development Agreement, you will commit to develop 2 or more Restaurants. At the same time that you sign an Area Development Agreement, you must sign our then-current Franchise Agreement for the first Restaurant you commit to develop and you must pay to us (i) \$35,000, which is equal to the initial franchise fee for the first Restaurant you commit to develop, plus (ii) a reservation fee equal to \$12,500 (being one half of our discounted franchise fee) multiplied by the number of Restaurants you commit to develop under the Area Development Agreement beyond the first Restaurant. Upon execution of each lease (or purchase agreement, if applicable) for each Restaurant you develop after your first Restaurant, you will execute our then-current form Franchise Agreement and pay to us the sum of \$12,500, representing the balance of our discount franchise fee of \$25,000. The initial franchise fee and reservation fee are fully earned by us when received and are not refundable.

### **Location Assistance and Construction Fee**

We do not charge any fees or expenses for the first 2 on-site visits. If, however, we do not approve 1 of your first 2 proposed sites and additional visits are required, you must pay us a nonrefundable location assistance fee of \$300 per day of assistance. You must also reimburse our expenses related to this assistance, including travel and lodging. If during the construction process more than 2 on-site visits from our construction team are required, you must pay us \$300 per day, and you must reimburse our expenses for travel and lodging.

### **Pre-Opening Training**

There is no fee for our initial training program for up to 3 people. If you wish to send more than 3 people to our initial training program, or if your scheduled opening date is delayed and we require the managers to be retrained, or if a replacement General Manager needs to complete the initial training program because your initial General Manager did not satisfactorily complete the program, you must pay to us our then-current training fee for each trainee (currently \$1,000 per trainee). In connection with the opening of your Restaurant, we will provide you with our trained representatives (the specific number of trainers will be determined by us). The trainers will provide on-site pre-opening and opening training, supervision and assistance to you for up to 7 days. The specific number of days will be determined by us. You must pay our then-current per diem rate for trainers, and you must reimburse us for the trainers' expenses, including without limitation travel and lodging.

### **Delayed Opening**

Your Restaurant must be open and operating within the time period designated by us, as set forth in the Franchise Agreement ("scheduled opening date"). If you do not locate a suitable site for your Restaurant and sign a lease (or acquire real estate) within 150 days after signing your Franchise Agreement, we will have the immediate right to terminate your Franchise Agreement without refunding any fees or costs paid or incurred by you.

**We may, during the term of your Franchise Agreement, design smaller or larger Restaurants that may cost less or more than your Restaurant.**

## **ITEM 6**

## OTHER FEES

<b>Fees<sup>(1)</sup></b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Royalty Fee <sup>(2)</sup>	6% of Gross Sales.	Payable weekly on Tuesday (unless Tuesday is not a business day, then it is due on the next business day).	Royalty Fees are calculated based on Gross Sales for the previous week. Amounts due will be withdrawn by EFT from your designated bank account. See <u>Note 2.</u>
Advertising Fund Fee <sup>(3)</sup>	3% of Gross Sales.	Payable together with the Royalty Fee.	See <u>Note 3.</u>
Initial Training <sup>(4)</sup>	No fee for first 3 attendees. \$1,000 for each additional attendee.	Before Training.	Training for the first 3 people is included in the franchisee fee. You must pay the training fee per person for any additional, new or replacement employees to attend our initial training program. In addition, we may offer an in-store manager certification program. See <u>Note 4.</u>
Additional On-Site Training	Our post-opening training rate, which is currently \$250 per trainer, per day.	On demand.	If we provide additional training at your Restaurant, you must pay our daily fee for each trainer we send to your Restaurant, plus travel and lodging expenses.

<b>Fees<sup>(1)</sup></b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Interest	1.5% per month or the highest rate allowed by applicable law, whichever is less.	On demand.	Interest may be charged on all overdue amounts. Interest accrues from the original due date until payment is received in full.
Audit Fee	Cost of audit.	When billed.	Payable only if we find, after audit, that you have understated any amount you owe to us or Gross sales by 2% or more. You must also pay the understated amount plus interest.
Prohibited Product or Service Fee	\$250 per day of use of unauthorized products or services.	If incurred.	In addition to other remedies available to us.
Transfer Fee – Franchise Agreement	\$20,000	Submitted with transfer application.	No fee charged to an individual or partnership franchisee that transfers its rights, one time only, to a corporate entity controlled by the same interest holders.
Transfer Fee – Area Development Agreement	\$20,000	Submitted with transfer application.	No fee charged to an individual or partnership franchisee that transfers its rights, one time only, to a corporate entity controlled by the same interest holders.

<b>Fees<sup>(1)</sup></b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Renewal (Franchise Agreement)	50% of our then-current initial franchise fee.	Six months before expiration of the Franchise Agreement.	As of the date of this Franchise Disclosure Document the initial franchise fee is \$35,000.
Inspection and Testing of a Product or Service	\$700 per product or service.	With request for approval.	Payable if you request that we evaluate a service or product that we have not previously approved and that you want to use in your Restaurant. Also, payable if we remove items from your Restaurant for testing and the items do not meet our specifications.
Liquidated Damages	Actual costs.	15 days after Franchise Agreement is terminated	See <u>Note 5</u> .
POS System Maintenance and Support	\$4,800 per year or \$400 per month.	As agreed.	Payable to the approved supplier for POS maintenance and support.
Costs and Attorneys' Fees	Actual costs.	On demand.	If you default under your franchise agreement, you must reimburse us for the expenses we incur (such as attorneys' fees and costs) in enforcing or terminating your agreement.
Indemnification	Actual costs.	On demand.	You must reimburse us for the costs we incur if we are sued or held liable for claims that arise



<b>Fees<sup>(1)</sup></b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
			from the operation of your Restaurant or for costs associated with defending claims that you used the Marks in an unauthorized manner.
Repair, Maintenance, and Remodeling/Redecorating	Will vary under circumstances. There is no contractual limit on the amount you may need to spend.	As incurred.	Payable to approved suppliers. You must regularly clean and maintain your Restaurant and its equipment. We may require you to remodel or redecorate your Restaurant to meet our then-current image for all Taco Pros Restaurants. We will not require you to remodel or redecorate your Restaurant more frequently than every 5 years.
Insurance	Reimbursement of our costs	If incurred.	If you do not maintain the required insurance coverages, we have the right (but not the obligation) to obtain insurance on your behalf.
Online Ordering	\$150 to \$250 per month, per restaurant.	Monthly.	Payable to our approved supplier.
Audio services, Internet services	\$150-\$200 per month.	Upon billing.	Payable to authorized service provider.

<b>Fees<sup>(1)</sup></b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Financial Reporting Non-Compliance Fee	\$500 per month.	Upon demand.	A late fee of \$500 per month for each month you are late in providing us with monthly financials, when due, as required under your Franchise Agreement. Payable to us which will be added to your next EFT Royalty collection.
Insufficient Funds (NSF) service charge	\$50 service charge will be billed each time you pay us but there are insufficient funds which then must be re-deposited for payment.	Upon billing.	Payable to us. Will be added to your next EFT Royalty collection.
Reimbursement for Monies Paid by Us on Your Behalf	Actual costs.	Upon Demand.	Covers the cost of insurance premiums and other payments you may fail to make and which we pay on your behalf. Payable to us. Will be added to your next EFT Royalty collection.

Notes:

1. All fees described in this Item 6 are nonrefundable. Except as otherwise indicated in the chart above, we impose all fees and expenses listed and you must pay them to us. Except as specifically stated, these amounts may increase due to changes in market conditions, increase in our cost of providing services, increases by third-parties over which we have no control, and future policy changes. At the present time we have no plans to increase fees over which we have control.

2. For the purposes of determining the fees to be paid under the Franchise Agreement, "Gross Sales" means the total selling price of all products and services and all income of every other kind and nature related to your Restaurant, whether for cash or credit and regardless of collection in the case of credit. If a cash shortage occurs, Gross Sales will be determined based on the records of the point-of-sale system. Gross Sales expressly excludes taxes collected from your customers and paid to the appropriate taxing authority and customer refunds or adjustments. Gross Sales also does not include sales of gift cards (until redeemed), shipping and handling charges, customer credits and refunds.

We may authorize certain other items to be excluded from Gross Sales. We may revoke or withdraw any exclusion at any time. The Royalty Fee and Advertising Fund Fee will be withdrawn from your designated bank account by electronic funds transfer (“EFT”) weekly, on Tuesday, based on Gross Sales for the preceding week. If you do not report your Restaurant’s Gross Sales during any period, we may debit your account for 120% of the last Royalty Fee and Advertising Fund Fee that we debited. If the Royalty Fee and Advertising Fund Fee we debit are less than the Royalty Fee and Advertising Fund Fee you actually owe us, once we are able to determine your Restaurant’s true and correct Gross Sales, we will debit your account for the balance on a day we specify. If the Royalty Fee and Advertising Fund Fee we debit are greater than the Royalty Fee and Advertising Fund Fee you actually owe us, we will credit the excess against the amount we otherwise would debit from your account during the following week.

If any state imposes a sales or other tax on the Royalty Fees, we have the right to collect this tax from you.

If a state or local law applicable to your Restaurant prohibits or restricts in any way your ability to pay Royalty Fees or other amounts based on Gross Sales derived from the sale of alcoholic beverages at your Restaurant, then the percentage rate for calculating Royalty Fees will be increased, and the definition of Gross Sales will be changed to exclude sales of alcoholic beverages, so that the Royalty Fees to be paid by you will be equal to the amounts you would have had to pay if sales from alcoholic beverages were included in Gross Sales.

3. We have established and administer an Advertising Fund on behalf of the System to provide national, regional or local creative materials for the benefit of the System. See Item 11, “Advertising” for details.

4. After your initial managers have successfully completed our initial training program in Illinois, we may offer a field certification program that allows assistant managers who meet certain eligibility requirements to be certified as a manager in an operating Restaurant. Other prerequisites and eligibility requirements will be set forth in our Manual. The cost of this in-store certification is \$1,000 per manager.

5. If we terminate your Franchise Agreement for cause, in addition to any other remedies we may have, you must pay us within 15 days after the effective date of termination, calculated as the average monthly Royalty Fees you paid or owed us during the 12 months of operation preceding the effective date of the termination multiplied by (a) 24 (being the number of months in 2 full years), or (b) the number of months remaining in the term of your Franchise Agreement had it not been terminated, whichever is higher.

## **ITEM 7**

### **ESTIMATED INITIAL INVESTMENT**

The following chart shows your estimated initial investment **if you sign a Franchise Agreement to develop and operate one Taco Pros Restaurant.**

### **YOUR ESTIMATED INITIAL INVESTMENT FRANCHISE AGREEMENT**

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is to be Made
Franchisee Fee <sup>(1)</sup>	\$35,000	Lump Sum	On signing Franchise Agreement	Us
Location Assistance Fee <sup>(1)</sup>	\$0 to \$300 per day	Lump Sum	As incurred	Us
Construction Assistance Fee <sup>(1)</sup>	\$0 to \$300 per day	Lump Sum	As incurred	Us
Rent <sup>(2)</sup>	\$5,000 to \$8,000 per month	As determined by Landlord	Before opening	Landlord
Security Deposits <sup>(3)</sup>	\$5,000 to \$10,000	As arranged	As arranged	Landlord, Utility Companies
Leasehold Improvements <sup>(4)</sup>	\$200,000 to \$250,000	As arranged	As arranged	Contractors
Equipment, Furniture and Fixtures <sup>(5)</sup>	\$150,000 to \$200,000	As arranged	As arranged	Approved Suppliers
Insurance <sup>(6)</sup>	\$3,000 to \$5,000	As arranged	As arranged	Insurance Companies
Permits and Licenses <sup>(7)</sup>	\$2,000 to \$5,000	As arranged	As arranged	Government Agencies
Initial Inventory <sup>(8)</sup>	\$10,000 to \$20,000	As arranged	As arranged	Approved Suppliers
Signage <sup>(9)</sup>	\$5,000 to \$8,000	As arranged	As arranged	Approved Suppliers
Grand Opening Advertising <sup>(10)</sup>	\$10,000	As arranged	As arranged	Approved Suppliers
Architecture <sup>(11)</sup>	\$5,000 to \$10,000	As arranged	As arranged	Approved Architect, Designers, Engineers
Travel Expenses for Training <sup>(12)</sup>	\$5,000 to \$10,000	As arranged	As incurred	Airlines, Hotels, Restaurants, Employees

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is to be Made
Professional Fees <sup>(13)</sup>	\$1,500 to \$4,000	As arranged	As arranged	Attorney, Accountant
Opening Assistance <sup>(14)</sup>	\$0 to \$3,000	Lump Sum	Prior to Opening	Us
Liquor Licensing <sup>(15)</sup>	\$0 to \$10,000	As incurred	As incurred	Approved Suppliers and Government Agencies
Additional Funds (3 months) <sup>(16)</sup>	\$20,000 to \$40,000	As incurred	As incurred	Various
<b>Total</b>	<b>\$456,500 to \$583,600</b>			

In general, none of the expenses listed in the above chart are refundable, except that any security deposits you must make may be refundable. We do not finance any portion of your initial investment.

Notes:

1. **Franchise Fee; Location Assistance Fee; Construction Assistance Fee.** Upon execution of your Franchise Agreement, you must pay a nonrefundable initial franchise fee of \$35,000 for the right to establish one Taco Pros Restaurant. The franchise fee is uniformly imposed on all franchisees. We do not charge any fees or expenses to provide site selection assistance for our first 2 site visits. If, however, additional site visits are necessary, you must pay us a nonrefundable location assistance fee of \$300 per day, and you must reimburse our expenses related to this assistance, including without limitation travel and lodging. In addition, if our construction team conducts more than 3 on-site visits, you must pay us \$300 per day, and you must reimburse our expenses related to this assistance, including without limitation travel and lodging. These fees are also discussed in Item 5.

2. **Rent.** If you do not own acceptable real estate for your Restaurant, you must lease the property for your Restaurant. The typical size for a typical Restaurant is 1,800 to 2,200 square feet. Our estimates assume that rental costs are from \$25 to \$50 per square foot annually. Real estate costs vary widely and may be significantly higher than projected in this table depending on factors including without limitation location, population density, economic climate, prevailing interest rates and other financing costs, conditions of the property and the nature and extent of required alterations or improvements. You should investigate all of the costs in the area you wish to establish a Restaurant.

Landlords may vary the base rental rate and charge rent based on a percentage of gross sales. In addition to base rent and percentage rent, your lease may require you to pay common area maintenance charges, your pro rata share of real estate taxes and insurance and your pro rata share of other charges relating to the property. The actual amount you pay under your lease will vary depending on the size of

your Restaurant, the types of charges that are allocated to tenants under your lease, your ability to negotiate with your landlord and the prevailing rental rates in the geographic region.

If you choose to purchase real property on which to build your Restaurant, your initial investment will be higher than estimated above. If you purchase real property, we cannot estimate how this purchase will affect your total initial investment.

3. ***Security Deposits.*** We expect that you will need to pay deposits to your landlord and for your utilities, including telephone, electricity and gas. The amount of your deposits will depend, in part, on your credit rating and the policies of your landlord and the utility companies. The amount required by your landlord may be significantly higher than the amounts we have indicated. Landlords may, at their sole discretion, accept a bank letter of credit in lieu of a cash deposit.

4. ***Leasehold Improvements.*** The cost of leasehold improvements will vary depending on numerous factors, including without limitation, the size and configuration of the premises, pre-construction costs (such as demolition of existing walls and removal of existing improvements and fixtures), the cost of materials and labor, which may vary based on geography and location and any requirement to use union workers. These amounts are based on the cost to prepare architectural and design plans, to remodel and finish-out your Restaurant, and the cost of leasehold improvements. Our low estimate assumes a “second generation” restaurant space (meaning the space was formally used as a restaurant) of 1,800 square feet to 2,200 square feet. Our high estimate assumes a “first generation” restaurant space (meaning a restaurant has never operated at the space) of 1,800 square feet to 2,200 square feet.

5. ***Furniture, Fixtures and Equipment.*** The equipment you will need for your Restaurant includes a point-of-sale (POS) system and digital menu boards, refrigerators, freezers, telephone system, ice machine, coolers, ranges, ovens, combi oven, warmers, flat top grill, chef base refrigerator, steam tables, fryers, prep tables and smallwares. The furniture and fixtures you will need for your Restaurant include décor items, artwork, booths, tables, chairs, and stools. We estimate the total cost to purchase and install these items will range from \$150,000 to \$200,000 for a typical Restaurant. It may be possible to lease some of these items, which will lower the amounts shown. You are required to utilize the telephone system and POS system we specify.

6. ***Insurance.*** You must have the insurance that we specify for your Restaurant at all times during the term of your Franchise Agreement. Our insurance requirements are included in Item 8.

7. ***Permits and Licenses.*** Our estimate includes the cost of obtaining local business licenses, which typically remain in effect for one year. The cost of these permits and licenses will vary substantially depending on the location of your Restaurant. We strongly recommend that you verify the cost of all licenses and permits required in your jurisdiction before signing the Franchise Agreement.

8. ***Initial Inventory.*** Our estimate includes your initial inventory of food products, ingredients, beverages and paper goods.

9. ***Signage.*** These amounts represent your cost for interior and exterior signage. Your landlord and local ordinances may impose different restrictions on interior and exterior signage, which may affect your costs. Any proposed changes to our signage must be submitted to us for approval.

10. ***Grand Opening Advertising.*** You must conduct a grand opening advertising campaign to promote the opening of your Restaurant. Please refer to Item 11 “Advertising” for details. At our request,

you must deposit with us the grand opening advertising money, and we will conduct the grand opening advertising campaign on your behalf.

11. **Architecture.** You must hire an approved architect to prepare plans and specifications and to create construction drawings, including kitchen layout design, that are specific to your approved location. We reserve the right to specify the architect you must use. All proposed plans and drawings must be approved by us before construction may begin, and any changes proposed during construction must also be approved by us.

12. **Travel and Living Expenses While Training.** These estimates include only your out-of-pocket costs associated with attending our initial training program, including travel, lodging, meals and wages for the first 3 trainees. These amounts do not include any fees or expenses for training other personnel. Your costs may vary depending on your selection of lodging and dining facilities, mode of transportation and distance of travel. The lower end of our estimate assumes that trainees live within driving distance of our training facility.

13. **Professional Fees.** We expect that you will retain an attorney and an accountant to assist you with evaluating this franchise offering, and with negotiating your lease or purchase agreement for the approved location.

14. **Opening Assistance.** In connection with your opening, we will provide you up to 2 of our representatives for up to 7 days. You must pay our current per diem rate for trainers, and you must reimburse their expenses, including travel, meals, lodging and incidentals.

15. **Liquor Licensing.** The cost to obtain a license to sell beer and wine varies greatly depending on the licensing authority and local resale market. The cost to obtain a license may be much higher than the range outlined in the above chart. In municipalities that use a quota-based system with no available licenses, the cost to acquire one from an existing licensee can be substantially higher. If so, we will not require you to sell beer and wine until you are able to obtain a license from the municipality. In municipalities that are not quota-based, the cost is usually limited to filing fees, plus fees for attorney's services and other service providers.

16. **Additional Funds.** This estimates your start-up expenses for an initial 3-month period, excluding payroll costs. This estimate does not include any revenue your Restaurant may earn during the first 3 months of operation. Your expenses will vary depending on factors such as how you follow our methods and procedures, your management skill, your experience and business acumen, local economic conditions (e.g., the local market for our products or services), the prevailing wage, competition and the sales level reached during the initial period. These are only estimates. Your costs may vary based on actual prices in your area and other site-specific requirements or regulations. In preparing this estimate, we relied on the experience of our company-owned Restaurants.

17. **Totals.** You should carefully review these figures with a business advisor before making a decision to purchase a franchise. We do not provide you financing arrangements. If you obtain financing from others to pay for some of the expenditures necessary to develop and operate your Restaurant, the cost of financing will depend on your creditworthiness, collateral, your lender's lending policies and financial condition, the regulatory environment and other factors. You are strongly encouraged to utilize your own attorney and accountant to assist you in preparing all paperwork and loan applications necessary to procure third party financing.

**YOUR ESTIMATED INITIAL INVESTMENT  
AREA DEVELOPMENT AGREEMENT**

**TACO PROS**

<b>Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment is to Made</b>
Franchise Fee – 1 <sup>st</sup> Restaurant <sup>(1)</sup>	\$35,000	Lump Sum	On signing Area Development Agreement	Us
Reservation Fee for each additional Restaurant <sup>(2)</sup>	\$12,500	Lump Sum	On signing Area Development Agreement	Us
Additional Funds (3 months) <sup>(3)</sup>	\$0 to \$30,000	As arranged	As incurred	Various

1. If you sign an Area Development Agreement, you must pay us a nonrefundable franchisee fee of \$35,000 for the first Restaurant you commit to develop at the time you sign the Area Development Agreement.

2. The reservation fee for all Restaurants after your first is \$12,500 for each Restaurant you commit to develop at the time you sign the Area Development Agreement. Please refer to Item 5 for details.

3. Area Developers without an operating Restaurant do not generate revenues from their development activities. They may desire to lease an office and would incur routine expenses associated with running an office. Area Developers may also incur other costs associated with site selection such as travel and lodging expenses.

4. Please refer to the table for the Estimated Initial Investment for expenses associated with opening a Restaurant under a Franchise Agreement signed under an Area Development Agreement.

**ITEM 8**

**RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES**

**Approved Suppliers**

You must purchase or lease and install all furnishings, fixtures, equipment (including POS system and computer hardware and software), décor items, lighting systems, audio and video systems, signs and related items, all of which must conform to the standards and specifications in the Manual or otherwise in



writing. You must purchase or lease the POS or computer system that we specify. You must not deviate from these methods, standards and specifications without our prior written consent, or otherwise operate in any manner which reflects adversely on the Marks or the System.

In the fiscal year ended December 31, 2021, we derived \$0 (or 0%) of our total gross revenues of \$0 from required purchases and leases. These figures are taken from our unaudited financial statements. No franchisor officer owns an interest in any supplier.

### **Standards and Specifications**

To ensure that you maintain the highest degree of quality and service, you must operate your Restaurant in strict conformity with the methods, standards and specifications which we prescribe in the Manual or otherwise in writing. You must maintain in sufficient supply and use and sell at all times only those food and beverage items, ingredients, products, materials, supplies and paper goods that meet our standards and specifications. All menu items must be prepared in accordance with the recipes and procedures specified in the Manual or other written materials. You must not deviate from these standards and specifications by the use or offer of non-conforming items or differing amounts of any items. You must sell and offer for sale only those menu items, products and services specified and required by us, and in the manner and style we require. You must not deviate from our standards and specifications. We will provide you with an update to the Manual or by another method (such as notice by email) of any changes in the standards and specifications. We reserve the right to impose a prohibited product or service fee of up to \$250 for each day you are not in compliance with the above.

You must permit us or our agents, at any reasonable time, to remove a reasonable number of samples of food or non-food items from your inventory or from your Restaurant free of charge, for testing by us or by an independent laboratory to determine whether the samples meet our then-current standards and specifications. In addition to any other remedies we may have, we may require you to pay the then-current cost for us to test the product (currently \$700 per product) if we have not previously approved the supplier of the item or if the sample fails to conform to our specifications.

You must obtain all food and beverage items, ingredients, supplies, materials, furnishings, fixtures, equipment (including POS system and computer hardware and software), and other products used or offered for sale at your Restaurant solely from suppliers who demonstrate, to our continuing satisfaction, the ability to meet our then-current standards and specifications. We do not make our supplier evaluation criteria available to you or any supplier.

You will be required to use certain contractors, vendors and suppliers. These contractors, vendors and suppliers will be designated in the Manual, and include architects and general contractors, suppliers of food and beverage, paper goods and supplies, POS system, computer hardware and software, furniture, fixture and equipment, custom fabrication, uniforms, social media, store branding items, gift cards, online ordering, music and store layout. We may add, subtract or change these designated parties at any time. You are solely responsible for all costs associated with the use of these designated contractors, vendors and suppliers. We reserve the right to restrict your use of contractors, vendors and suppliers to us, entities affiliated with us and third parties designated by us.

### **Change of Suppliers**

If you wish to purchase, lease or use any products or other items from an unapproved supplier, you must submit to us a written request for approval, or you must request the supplier to do so, and you must submit to us our then-current fee (currently \$700 per product). We must approve any product or

supplier in writing before you make any purchases of that product or from that supplier. We may require that our representatives be permitted to inspect the supplier's facilities and that samples from the supplier be delivered, either to us or to an independent laboratory, for testing. We reserve the right to re-inspect the facilities and products of any approved supplier and to revoke our approval if the supplier fails to continue to meet any of our then-current standards. Our supplier approval procedure does not obligate us to approve any particular supplier. However, we will notify you within 60 days after we complete the inspection and evaluation process of our approval or disapproval of any proposed supplier. We are not required to make available to you or to any supplier our criteria for product or supplier approval. We may revoke our prior approval of any product or supplier at any time, and you must stop using that product or stop purchasing from that supplier immediately upon your receipt of written notice from of our revocation.

We have developed, and may continue to develop for use in the System, certain products that are prepared from confidential or proprietary recipes, and other proprietary products that bear the Marks. Because of the importance of quality and uniformity of production, and the significance of those products in the System, it is to your and our benefit that we closely control the production and distribution of those products. Therefore, you must use only our proprietary recipes and other proprietary products, and you must purchase all of your requirements of those products solely from us or from a source designated by us. You recognize and agree to use only the precise brands of products, and precise product type within the brands, that we specify in our recipes, the Manual, order guides, and other notices from us.

### **Purchase Arrangements and Rebates**

We may, when appropriate, negotiate purchase arrangements, including price terms, with designated and approved suppliers on behalf of the System. As of December 31, 2021, there are no purchase arrangements or purchasing or distribution cooperatives for any of the items described above in which you must participate.

We may establish strategic alliances or preferred vendor programs with suppliers who are willing to supply some products, equipment or services to some or all of the Restaurants in the System. If we establish those types of alliances or programs, we may limit the number of approved suppliers with whom you may deal, we may designate sources which you must use for some or all products, equipment and services, and we may refuse to approve proposals from franchisees to add new suppliers if we believe that approval would not be in the best interests of the System or the network of Restaurants.

We and our affiliates may receive payments or other compensation from approved suppliers on account of the suppliers' dealings with us, you, or other Restaurants in the System, such as rebates, commissions or other forms of compensation. We may use amounts that we receive from suppliers for any purpose that we deem appropriate. We and our affiliates may negotiate supply contracts with our suppliers under which we are able to purchase products, equipment, supplies, services and other items at a price that will benefit us and our franchisees. We currently do not receive payments or other compensation from approved suppliers. However, we reserve the right to do so in the future.

We estimate that your purchases from us or approved suppliers, or which must conform to our specifications, will represent approximately 75-95% of your total purchases in establishing your Restaurant, and approximately 75-95% of your total purchases in the continuing operation of your Restaurant.

## **Advertising**

All advertising and promotional materials, signs, decorations, paper goods (including menus and all forms and stationery used in your Restaurant) and other items we designate must bear the Marks in the form, color, location and manner we prescribe. In addition, all of your advertising and promotion in any medium must be conducted in a dignified manner and must conform to the standards and requirements in the Manual or otherwise specified by us. You must obtain our approval before you use any advertising and promotional materials and plans if we have not created or approved them during the 12 months before their proposed use. Any advertising and promotional materials you submit to us for our review will become our property.

## **Site and Lease Approval**

You must obtain our approval of the proposed site for your Restaurant before you acquire the site and you must obtain our approval of any contract of sale or lease for your Restaurant before you sign the contract or lease. If you will lease the property from which your Restaurant will operate, you and your landlord must sign the Franchisor Addendum, which permits the assignment of your lease to us on expiration or termination of your Franchise Agreement (**Exhibit B** to the Franchise Agreement), or any other form we may draft, and you must attach the document as an exhibit to the lease.

## **Insurance**

Before you open your Restaurant, you must obtain insurance coverages we require. Our current insurance requirements are described below. We may modify our insurance requirements from time to time during the term of your Franchise Agreement. Any modifications will be communicated to you in the Manual or otherwise in writing. This insurance coverage must be maintained during the term of your Franchise Agreement and must be obtained from a reputable, licensed carrier or carriers acceptable to us. All insurance must be on an “occurrence” basis.

1. General Liability in the amount of \$1,000,000 per occurrence, \$2,000,000 general aggregate limit, including Products/Completed Operations Liability.
2. “All Risk” coverage for the full cost of replacement of your Restaurant premises and all other property in which we may have an interest with no coinsurance clause applicable.
3. Business Interruption insurance in a sufficient amount to cover net profits, the cost of key personnel to be retained, the payment of Royalty Fees, Advertising Fund Fee, and any other fees due to us throughout the period your Restaurant is not operational and continuing expenses for a period of at least 180 days.
4. Workers’ Compensation insurance in amounts required by applicable law (but not less than \$500,000 per occurrence for Employers’ Liability) or, if permissible under applicable law, any legally appropriate alternative providing substantially similar compensation for injured workers, subject to the conditions set forth in the Franchise Agreement.
5. Automobile Liability covering all owned and non-owned vehicles with limits of \$1,000,000 Combined Single Limit Bodily Injury/Property Damage.

6. Umbrella/Excess Liability with limits of \$1,000,000 Bodily Injury/Property Damage, recognizing underlying coverage for General Liability, Automobile Liability and Employer's Liability for the required limits.

7. Builder's Risk Insurance at such coverage of not less than \$1,000,000 per occurrence, \$2,000,000 in the aggregate which must be active prior to any construction or site examinations of your Restaurant premises.

8. Liquor Liability coverage of not less than \$1,000,000 per occurrence, \$2,000,000 aggregate (if beer or wine is served, sold or distributed).

9. Other insurance required by the state or locality in which your Restaurant is located and operated or as may be required by the lease or mortgage for your Restaurant.

You may, after obtaining our written consent, have reasonable deductibles under the coverage required under the paragraphs above. Also, related to any construction, renovation or remodeling of your Restaurant, you must maintain builders risk insurance and performance and completion bonds in forms and amounts, and written by a carrier or carriers, satisfactory to us. All of the policies must name us, those of our affiliates which we specify, and our respective officers, directors, shareholders, members, managers, partners, agents, representatives, independent contractors, servants and employees of each of them, as additional named insureds and must include a waiver of subrogation in favor of all those parties.

We have the right to require that you obtain from your insurance company a report of claims made and reserves set against your insurance. We reserve the right to change our insurance requirements during the term of your Franchise Agreement, including the types of coverage and amounts of coverage, and you must comply with those changes.

## **ITEM 9**

### **FRANCHISEE'S OBLIGATIONS**

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

<b>Obligation</b>		<b>Section in Agreement</b>	<b>Disclosure Document Item</b>
a.	Site selection and acquisition/lease	Section 2	Items 8 and 11
b.	Pre-opening purchase/leases	Sections 7 and 8	Items 5, 6, 7, 8, and 11
c.	Site development and other pre-opening requirements	Section 2	Items 1, 8, and 11
d.	Initial and ongoing training	Section 6	Items 5, 6, and 11

<b>Obligation</b>		<b>Section in Agreement</b>	<b>Disclosure Document Item</b>
e.	Opening	Section 6	Items 5, 6, and 11
f.	Fees	Sections 3, 4, 5, 6, 7, 8, 11, 14, and 18	Items 5 and 6
g.	Compliance with standards and policies/Operating Manual	Sections 2, 3, 6, 7, 8, 9, 10, and 11	Items 11 and 14
h.	Trademarks and proprietary information	Section 9 and 10	Items 11, 13, and 14
i.	Restrictions on products/services offered	Section 7	Items 8 and 16
j.	Warranty and customer service requirements	Section 7	
k.	Territorial development and sales quotas	Section 11	Item 12. There are no sales quotas.
l.	Ongoing product/service purchases	Sections 7	Items 6 and 8
m.	Maintenance, appearance and remodeling requirements	Section 2, 7, and 14	Items 8 and 11
n.	Insurance	Section 12	Items 7 and 8
o.	Advertising	Section 8	Items 6, 8, and 11
p.	Indemnification	Section 15	Item 6
q.	Owner's participation/management/staffing	Section 6, 14, 15, and 20	Items 11 and 15
r.	Records/reports	Sections 4, 7, and 11	Items 6
s.	Inspections/audits	Sections 2, 7, and 11	Items 6, 8, and 11
t.	Transfer	Section 14	Items 6 and 17

<b>Obligation</b>		<b>Section in Agreement</b>	<b>Disclosure Document Item</b>
u.	Renewal	Section 3	Items 6 and 17
v.	Post-termination obligations	Section 18	Items 6 and 17
w.	Non-competition covenants	Section 10	Item 17
x.	Dispute resolution	Section 19	Items 6 and 17

## **ITEM 10**

### **FINANCING**

We do not offer, either directly or indirectly, any financing arrangements to you. We do not guarantee your notes, leases or other obligations.

## **ITEM 11**

### **FRANCHISOR'S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS AND TRAINING**

Except as listed below, we need not provide any assistance to you.

#### **Pre-Opening Obligation**

**Area Development Agreement:** Under the Area Development Agreement we give you the following assistance and services:

1. Grant you certain rights to a development area (a “**Development Area**”) within which you will assume the responsibility to develop and operate an agreed-upon number of Taco Pros Restaurants (Area Development Agreement, Section 1.1).
2. Review site survey information and, if the site meets our criteria, we will approve the site for a Restaurant (Area Development Agreement, Section 7).
3. Provide you with consultation and final approvals for our standard specifications and layouts for building and furnishing your Restaurant (Area Development Agreement, Section 7).
4. Review your architect’s site plan and final build-out plans and specifications for conformity to our standards and specifications (Area Development Agreement, Section 7).
5. Provide other resources and assistance as we may develop and offer to our Area Developers (Area Development Agreement, Section 7).

**Franchise Agreement:** Before the opening of your Restaurant we give you the following assistance and services:

1. Provide you with our site selection guidelines and the site selection assistance we deem advisable. (Franchise Agreement, Section 5.1) We will also designate your protected territory, if any (the “**Protected Territory**”) (Franchise Agreement, Section 1.4).
2. Provide, upon your request or if we otherwise require, site location assistance, at no cost to you for our first 2 site visits, and \$300 per day plus expenses thereafter (Franchise Agreement, Section 5.1).
3. Assist you, your architect and your equipment supplier to design the initial floor plan for your Restaurant, which design will be created at your sole cost and expense (Franchise Agreement, Section 5.3).
4. Provide you, on loan, the Manual, which we may revise from time to time during the term of your Franchise Agreement (Franchise Agreement, Section 5.4 and 10.1).
5. Provide you with a list of our approved suppliers, which is subject to change during the term of your Franchise Agreement (Franchise Agreement, Sections 5.9 and 7.4).
6. Provide an initial training program at our principal place of business as described below (Franchise Agreement, Sections 5.10 and 6.4).
7. Provide up to 2 of our training representatives for a period of up to 7 days at your Restaurant to provide opening assistance, including on-site pre-opening and opening training, supervision, and assistance. You must pay the trainers’ per diem rates and reimburse their expenses incurred in providing you opening assistance, including travel and lodging (Franchise Agreement, Section 6.4).

### **Post-Opening Obligations**

**Area Development Agreement:** None.

**Franchise Agreement:** During your operation of your Restaurant we will provide the following assistance and services:

1. Visit and conduct evaluations of your Restaurant and the products and services provided as we deem necessary to ensure that our high standards of quality, appearance and service of the System are maintained. (Franchise Agreement, Sections 5.5 and 7.5)
2. Provide you with design and art for advertising and promotional materials and information developed by us and/or our affiliates from time to time for use by you in marketing and conducting local advertising for your Restaurant. We will require you to purchase and use some or all of such materials, and impose a charge for any required or optional material for your purchase from us. (Franchise Agreement, Section 5.6) There is no contractual limitation on the amount of materials we may require you to purchase.

3. Give you advice and provide written materials (including updates to the Manual) concerning techniques of managing and operating your Restaurant as we deem necessary, including new developments and improvements in equipment, food products, recipes, packaging and preparation, food safety and handling procedures (Franchise Agreement, Section 5.7).

4. Provide, at your request, or our requirement (such as in the event of a default), additional on-site training at your Restaurant. You must pay our then-current rate for post-opening training assistance (currently \$250 per trainer per day, plus travel and lodging expenses) for each trainer providing the training (Franchise Agreement, Section 6.4).

5. Administer the Advertising Fund (Franchise Agreement, Section 8.2).

6. Indemnify and reimburse you for all damages for which you are held liable in any proceeding arising out of your use of any of the Marks (including settlement amounts), provided you and your Owners have fully complied with the terms of the Franchise Agreement (Franchise Agreement, Section 9.4).

We have the right to delegate to any designee the performance of any pre-opening or continuing obligation for any Franchisee or Area Developer.

## **Advertising**

### **Franchise Agreement:**

**Grand Opening Advertising:** You must conduct an advertising campaign announcing the grand opening of your Restaurant (currently a minimum of \$10,000). Your grand opening advertising campaign must be conducted after your Restaurant's opening at the appropriate time designated by us, which is typically between 15 and 30 days after opening and may include promotional giveaways. You must not begin your grand opening campaign until we are satisfied that your employees are adequately trained and your Restaurant is adequately stocked and staffed. You must submit to us, for our approval, the proposed grand opening advertising campaign before you conduct the campaign. At our request, you must provide us with the money for your grand opening advertising campaign and we will conduct the campaign on your behalf.

**Ongoing Advertising:** You must contribute to the Taco Pros Advertising Fund (the "**Advertising Fund**") and also must make expenditures on local advertising. We will determine the total advertising contributions and expenditures and also will allocate expenditures and contributions among the Advertising Fund and local advertising and may, in our sole discretion, periodically modify both the allocation and amount of your expenditures among the Advertising Fund and local advertising, except that we will not require the amount of advertising contributions to the Advertising Fund to exceed 4% of your Gross Sales and your required expenditures for local advertising, over and above your contribution to the Advertising Fund, will never be less than \$1,000 per month. Any Restaurant owned by us or our affiliates may, but is not required to, contribute to the Advertising Fund an amount which is calculated on the same basis as the contributions of our Franchisees. The Advertising Fund is not a trust fund and we do not have any fiduciary duty to you or anyone else in connection with the collection or expenditure of the Advertising Fund monies or any other aspect of its operations.

**Advertising Fund:** We have established and will administer the Advertising Fund to advertise the System and the Restaurants. You must contribute to the Advertising Fund each week, to be paid in the



same manner as the Royalty Fee. In 2021, \$0.00 was spent and \$0.00 was collected by the Advertising Fund.

The Advertising Fund is maintained and administered by us or our designee as follows:

1. We direct all advertising programs and have sole discretion to approve the creative concepts, materials and media used in the programs and their placement and allocation. The Advertising Fund is intended to maximize general public recognition and acceptance of the Marks and improve the collective success of all Restaurants operating under the System. We may use monies from the Advertising Fund to present refresher training programs or to present an annual meeting of our franchisees. In administering the Advertising Fund, we and our designees are not required to make expenditures for you that are equivalent or proportionate to your contribution or to ensure that any particular franchisee benefits directly or pro rata from the placement of advertising.

2. The Advertising Fund may be used to satisfy the costs of maintaining, administering, directing and preparing marketing and advertising, including the cost of preparing and conducting television, radio, magazine and newspaper advertising campaigns; direct mail and outdoor billboard advertising; internet marketing; all forms of social media; public relations activities; employing advertising agencies; and costs of our personnel and other departmental costs for the marketing and advertising that we administer or prepare internally. All sums you pay to the Advertising Fund will be maintained in a separate account. We may reimburse ourselves out of the Advertising Fund for our reasonable administrative costs and expenses that we may incur in the administration or direction of the Advertising Fund and advertising programs for you and the System. The Advertising Fund and its earnings will not otherwise benefit us. The Advertising Fund is operated solely as a conduit for collecting and expending the Advertising Fund Fees as outlined above. Any sums paid to the Advertising Fund that are not spent in the year they are collected will be carried over to the following year.

3. We will prepare an annual statement of the operations of the Advertising Fund that will be made available to you if you request it. We are not required to have the Advertising Fund statements audited.

4. Although the Advertising Fund is intended to be perpetual, we may terminate the Advertising Fund at any time. The Advertising Fund will not be terminated until all monies in the Advertising Fund have been spent for advertising or promotional purposes or returned to contributors on a pro rata basis. If we terminate the Advertising Fund, we have the right to reinstate it at any time and you must again contribute to the Advertising Fund.

We currently advertise the System, the Restaurants and the products offered by the Restaurants primarily using point of purchase advertising materials, direct mail, electronic and internet marketing and social media, public relations and promotions and print media. All of our advertising is developed by members of our staff or third-party consultants.

**Local Advertising:** You must not advertise or use the Marks in any fashion on the internet, World Wide Web or by other means of advertising without our express written consent. You must not authorize others to advertise or use the Marks in any fashion on the internet, World Wide Web or by other means of advertising without our express written consent. Any advertising that you propose to use that has either not been prepared by us or has not been approved by us in the immediately preceding 12-month period must be submitted to us for our approval before you may use it. Unless we provide our specific written approval of the proposed advertising materials, the materials are deemed not approved. Any materials you submit to us for our review will become our property, and there will be no restriction on our

use or distribution of these materials. We will review all submitted materials within 15 days. If we do not provide our specific approval of the proposed materials within this 15-day period, the proposed materials are deemed to be not approved. We have the right, at any time, to withdraw our approval for any previously-approved advertising.

We reserve the right to require you to include certain language in any approved advertising and on your menus, such as “Franchises Available” and our website address and telephone number.

The Advertising Fund will not use any funds for advertising that is principally a solicitation for the sale of franchises for Restaurants.

During the term of your Franchise Agreement, we may periodically make available for resale to your customers certain merchandise identifying the System, such as logoed merchandise and memorabilia, in sufficient amounts to meet customer demand. We may specify that you must purchase such merchandise from us, our affiliates, or another designated supplier. Your requirement to purchase such merchandise is subject to customer demand and your inventory on hand.

Notwithstanding the above described advertising activities, we are not obligated under the Franchise Agreement to conduct any advertising or promotional activities.

**Website/Intranet:** Websites (as defined below) are considered “advertising” under the Franchise Agreement and are subject, among other things, to our review and prior written approval before they may be used (as described above). As used in the Franchise Agreement, the term “website” means an interactive electronic document contained in a network of computers linked by communications software that you operate or authorize others to operate and that refers to Restaurants, the Marks, us, or the System. The term website includes internet and World Wide Web home pages. All domain names related to Restaurants shall be registered by us.

You may not establish a website related to the Marks or the System, nor may you offer, promote, or sell any products or services, or make any use of the Marks, through the internet without our prior written approval. You may not authorize others to establish a website related to the Marks or the System, nor may you authorize others to offer, promote, or sell any products or services, or make any use of the Marks, through the internet without our prior written approval. If such approval is given, you must assure that at all times we will have administrative access to such website and we may, at our sole discretion, alter or cease the use and visibility of the website. If we, in our sole discretion, deem the website is operating or communicating a message outside of our brand standards, we may change the password of the website and take control of the content communicated to the public. As a condition to granting any consent, we will have the right to establish any requirement that we deem appropriate, including a requirement that your only presence on the internet will be through one or more web pages that we establish on our website.

We will have the right to establish a website or other electronic system providing private and secure communications (e.g., an intranet) between us, our franchisees, and other persons and entities that we decide are appropriate. If we require, you must establish and maintain access to the intranet in the manner we designate. We also may periodically prepare agreements and policies concerning the use of the intranet that you must acknowledge and/or sign.

You are strictly prohibited from promoting your Restaurant or using the Marks in any manner on any social or networking websites or applications, including but not limited to Facebook, Instagram, LinkedIn, Twitter, YouTube, or Twitch, without our prior written consent. If we give our consent, you

will assure that at all times we have administrative access to such social or networking websites or applications and may, at our sole discretion, alter or cease the use and visibility of any such social or networking websites or applications. If we, at our sole discretion deem the social or networking website or application is operating or communicating a message outside of our brand standards, we may change the password of the social or networking website or application and take control of the content communicated to the public.

**Advisory Council:** We may, in our discretion, form an advisory council to work with us to improve the System, the products offered by the Restaurants, advertising conducted by the Advertising Fund, and any other matters that we deem appropriate. The advisory council will act solely in an advisory capacity and will not have decision making authority. We will have the right to change, merge or dissolve any advisory council that we form.

**Area Development Agreement:** Area Developers make no advertising contributions and have no advertising obligations; such obligations are contained in individual Franchise Agreements which govern the operation of a Restaurant.

## **Training**

**Franchise Agreement:** No later than 60 days before the date your Restaurant begins operation, you or your General Manager must successfully complete the initial training program. Training slots must be requested in writing and will be reserved on a first-come, first-served basis. Presently, we offer training at our corporate headquarters and/or at our affiliates' Restaurants, or another location we designate. Our current initial training program is 4 weeks. Initial training programs will be offered at various times during the year depending on the number of franchisees entering the System, replacement managers and other personnel needing training, the number of new Restaurants being opened and the timing of the scheduled openings of Restaurants. Our initial training program is mandatory and must be completed to our satisfaction.

We will provide instructors and training materials for the initial training of up to 3 people at no additional charge, but you must pay the expenses incurred by you and your trainees while attending training. You may also have additional personnel trained by us, subject to available space. You must pay a training fee (currently \$1,000 per trainee) for each additional attendee. You are also responsible for any expenses incurred by them in attending training, such as travel, meals, lodging and wages. We will determine whether your trainee has satisfactorily completed initial training. If a trainee does not satisfactorily complete the initial training program, you must designate a replacement to satisfactorily complete training before you will be permitted to open your Restaurant. Any manager subsequently designated by you must also receive and complete the initial training to our satisfaction, even if this requires sending that manager to our training program at your expense. You will be responsible to pay the training fee for the initial training we provide to a replacement or successor employee (currently \$1,000 per trainee). You must also pay for all expenses incurred by you and your employees for any training program, including the costs of travel, meals, lodging and wages.

At all times, each Restaurant must have at least one manager that has been certified by us. Certification is obtained by successfully completing the initial training program. There must always be at least one certified manager present at your Restaurant during operating hours.

Before being accepted into the initial training program, a prospective manager must have 2 years' restaurant experience with at least 1 year of management experience.

We will provide up to 2 of our trainers at your Restaurant for a period of up to approximately 7 days to provide opening assistance, including on-site pre-opening and opening training, supervision and assistance. The number of trainers we provide and the number of days will be determined by us at our sole discretion.

If during the term of your Franchise Agreement you request that we provide, or we require, additional on-site training at your Restaurant, you must pay our then-current additional training fee for each trainer we provide.

Bhagyesh Patel, along with members of our staff, will oversee training. Mr. Patel has over 10 years' experience in the restaurant and food and beverage industry. The minimum experience of our instructors that is relevant to the subject taught and our operations is from 5 to over 10 years. The instructional materials used in the initial training consist of the Manual, marketing and promotional materials, programs related to the operation of the POS system, and any other materials that we believe will be beneficial to our franchisees in the training process.

**The training schedule and activities of the initial training program are described below:**

<b>TRAINING PROGRAM</b>			
<b>Subject</b>	<b>Approximate Hours of Classroom Training</b>	<b>Approximate Hours of On-The-Job Training</b>	<b>Location</b>
Company policy and procedures	2	10	Chicago, Illinois
Product and Handling Procedures	2	30	Chicago, Illinois
Food Preparation	2	100	Chicago, Illinois
Management	10	30	Chicago, Illinois
Customer Service	5	30	Chicago, Illinois
Computer	10	30	Chicago, Illinois

The entire training program is subject to change without notice to you due to updates in materials, methods, manuals and personnel. The subjects and time periods allocated to the subjects actually taught to a specific franchisee and its personnel may vary based on the experience of those persons being trained.

In addition to the initial training program and any additional on-site assistance or training you request, as described above, we may offer training programs, seminars and other related activities, or an annual meeting of our franchisees. We may designate that attendance at any such program or annual meeting is mandatory for you and/or your General Manager, or other Restaurant personnel. We will bear the costs of presenting any such program or annual meeting or we may use money from the Advertising Fund to pay these costs. You must pay for the expenses of your trainees/attendees, including travel, lodging, meals and wages.

**Area Development Agreement:** We do not provide training under the Area Development Agreement. Training is provided under the Franchise Agreement signed under the Area Development Agreement, as described above.

### **Confidential Operations Manual**

The Table of Contents for the Taco Pros Restaurant Confidential Operations Manual (“**Manual**”) is attached to this Franchise Disclosure Document as **Exhibit F**. The Manual contains approximately 20 pages. The Manual contains mandatory standards, operating procedures and rules, which you are required to follow. We may change the terms of, and add to, the Manual whenever we believe it is necessary or appropriate. You must comply with all of our changes to the Manual. There is no separate Manual for the Area Development Agreement. The Confidential Operations Manual is subject to change at any given time without any prior notice.

### **Site Selection and Opening**

You assume all costs, liabilities, expenses and responsibility for locating, obtaining and developing a site for your Restaurant and for constructing and equipping your Restaurant at the accepted site. You must present to us a site for your Restaurant for our written approval using our site submittal forms and/or criteria. We will not select the site for you. Before you lease or purchase the site for your Restaurant, the site must satisfy our site selection guidelines. If you request that we conduct an on-site evaluation, you must first submit to us in the form we specify a description of the site, including evidence that the site satisfies our site selection guidelines, together with other information and materials that we may require, including a letter of intent or other evidence that confirms your favorable prospects for obtaining the site. We do not charge any fees or expenses for our first 2 site visits. If, however, additional site visits are required, you must pay us a nonrefundable location assistance fee of \$300 per day, and you must reimburse our expenses related to this assistance, such as travel and lodging.

You must submit to us for approval all required information and materials for the first proposed site no later than 1 month after you have signed your Franchise Agreement for your first Restaurant, and for your second or later Restaurant, no later than 60 days after the scheduled opening date of the immediately preceding Restaurant. We will have 30 days after we receive this information and materials from you to accept or decline the proposed site as the location for your Restaurant. If we do not provide our specific acceptance of a proposed site, the site is deemed not accepted. Your Restaurant may not be relocated without first obtaining our written consent. If the site has been declined, we will grant you a one-time extension of an additional 30 days from the date of rejection to submit an alternate location for acceptance. You must have an executed lease or purchase agreement within 30 days of site acceptance.

We will provide you with our current site selection guidelines. Our guidelines for site selection may require that you conduct, at your expense, an evaluation of the demographics of the market area for the location (including the population and income level of residents in the market area), aerial photography, size and other physical attributes of the location, proximity to residential neighborhoods, schools, shopping centers, entertainment facilities and other businesses that may attract consumers and generate traffic. We may use these and other factors, including general location and neighborhood, traffic patterns, availability of parking, and ease of access to the location, in our review of your proposed site.

The date by which you must open your Restaurant will be set forth in your Franchise Agreement (the “**scheduled opening date**”) and will be determined on a case-by-case basis. This time may be shorter or longer depending on the time necessary to obtain an accepted site, to obtain financing, to obtain the permits and licenses for the construction and operation of your Restaurant, to complete construction or

remodeling as it may be affected by weather conditions, shortages, delivery schedules and other similar factors, to complete the interior and exterior of your Restaurant, including decorating, purchasing and installing furnishing, fixtures, equipment and signs, and to complete preparation for operating your Restaurant, including purchasing inventory and supplies. You must open your Restaurant and begin business by the scheduled opening date, which for your first Restaurant is typically 9 months from the date you sign your Franchise Agreement.

If you and we are unable to agree on a suitable site for your Restaurant within the time frames mentioned above, or if you and/or your General Manager are unable to complete our initial training program to our satisfaction (after giving you an opportunity to designate a replacement General Manager), we may terminate your Franchise Agreement. If you have not located a suitable site and signed a lease (or acquired real estate) for your Restaurant within 150 days after you sign your Franchise Agreement, we have the right to immediately terminate your Franchise Agreement and retain all fees.

If you are an Area Developer, you must sign your first Franchise Agreement at the same time you sign the Area Development Agreement.

### **Computer and Point of Sale Systems**

**Franchise Agreement:** You must purchase and use a certain point-of-sale (POS) system and computer hardware and software that meet our specifications and that are capable of electronically interfacing with our computer system. The computer system is used to collect and monitor point-of-sale information, customer data, and to create business reports and may be used to collect and monitor inventory control and shrinkage, payroll and accounting information, gift cards and loyalty program, online orders and credit card processing.

The computer system is designed to enable us to have immediate access to the information monitored by the system. There are no contractual limitations on our access or use of the information we obtain. You must install and maintain equipment and a high-speed internet connection in accordance with our specifications to permit us to access the point-of-sale system (or other computer hardware and software) at your Restaurant as described above. This will permit us to update the point-of-sale system, electronically inspect and monitor information concerning your Restaurant's Gross Sales, customer lists and databases, and any other information that may be contained or stored in the equipment and software. You must ensure that we have access at the times and in the manner we specify, at your cost. Your customer database is considered our property, and we are able to utilize customer database information in any manner we see fit.

You must purchase or lease the point-of-sale (POS) system, computer hardware and software, cash drawers, credit card scanners, receipt terminals, keyboards and networking hardware that we designate. Our specific requirements and designated supplier will be included in the Manual. We expect the point-of-sale system will cost between \$5,000 and \$6,000 to purchase. You must also purchase a maintenance contract for your point-of-sale system, which we anticipate will cost approximately \$1,200 per year. We reserve the right to change the designated point-of-sale system and supplier in the future.

You must obtain any upgrades and updates to the software used with the point-of-sale system at your expense on at least an annual basis or when offered by the supplier. In addition, we may require you to update and/or upgrade all or a portion of your point-of-sale system during the term of your Franchise Agreement, at your expense. The Franchise Agreement does not limit our ability to require you to update or upgrade your point-of-sale system or the cost of any update or upgrade. Neither we nor any of our

affiliates have any responsibility to provide you with any maintenance, updates or upgrades for your point-of-sale system.

You must obtain and maintain internet access or other means of electronic communication, as specified by us. It is a default under your Franchise Agreement if you do not maintain the equipment, lines and communication methods in operation and accessible to us at all times throughout the term of your Franchise Agreement. We must have access at all times and in the manner that we specify.

Unless we permit your Restaurant to opt out, you must participate in any online ordering program we may establish, whereby your customers are able to place orders for your Restaurant through an app or the internet. You agree to pay any then-current fees to our approved vendor for participation in the online ordering program, and to comply with all rules and procedures applicable to such program. You are also responsible to pay for the integration of such online ordering system with your point-of sale system to allow orders placed online to be directly and automatically entered into your point-of-sale system.

**Area Development Agreement:** Area Developers have no obligation to acquire or use any specific computer hardware or software; such obligations are contained in the individual franchise agreements that govern the operation of Restaurants.

## **ITEM 12**

### **TERRITORY**

**Franchise Agreement:** Your Franchise Agreement will specify the site that will be the accepted location for your Restaurant. Provided your Restaurant is not located at a Non-Traditional site, your Franchise Agreement may also specify a Protected Territory. The size and scope of the Protected Territory, if any, will be determined according to whether the accepted location is a metropolitan, urban, or suburban area. A Protected Territory in a suburban area will typically have a maximum of a 1-mile radius surrounding your Restaurant and in a more densely populated metropolitan or urban area, will typically have a maximum of 2 block radius surrounding your Restaurant. If we approve your Restaurant to be located in a non-traditional site (a “**Non-Traditional Site**”) (such as mall food courts, airports, hospitals, cafeterias, commissaries, educational facilities, hotels, office buildings and stadiums, arenas, ballparks, festivals, fairs, casinos, Indian reservations, military bases and other mass gathering locations or events), you will not be granted a Protected Territory.

While you will receive the territorial protections described in this Item, because we reserve certain rights as described herein, you will not receive an “exclusive territory.” You may face competition from other franchisees, from outlets we or our affiliates own, or from other channels of distribution.

During the term of your Franchise Agreement, we will not establish or operate, nor grant any other person the right to establish or operate a Taco Pros Restaurant within your Protected Territory, except as may be permitted under the Franchise Agreement as described below. Your Protected Territory may not be altered during the term of your Franchise Agreement and does not depend on achieving a certain sales volume, market penetration or other factor, other than compliance with the Franchise Agreement.

If during the term of the Franchise Agreement, you wish to relocate your Restaurant, or if your Restaurant is damaged or destroyed and cannot be repaired within 60 days, you must submit to us in writing the materials we require to consider your request, including information concerning the proposed new location for your Restaurant. We will either approve or disapprove of the new proposed site based on

many factors, such as compliance with your Franchise Agreement, meeting our then-current requirements for a Restaurant, whether the new location is within your development area or Protected Territory, and the proximity to other Restaurants. If approved, you must sign our then-current form of Franchise Agreement, but you will not pay a new initial franchise fee. The term of the new Franchise Agreement shall only be the remainder of the term left in the original Franchise Agreement.

Except as expressly limited by the Franchise Agreement, we and our affiliates retain all rights with respect to Restaurants, the Marks, the System and any products and services anywhere in the world, and regardless of the proximity to or financial impact on your Restaurant, including the right to: (a) produce, offer and sell and to grant others the right to produce, offer and sell the products offered at Restaurants and any other goods displaying the Marks or other trade and service marks through similar or dissimilar channels of distribution, both within and outside the Protected Territory, and under any terms and conditions we deem appropriate; (b) operate and to grant others the right to operate Restaurants located outside the Protected Territory under any terms and conditions we deem appropriate; (c) operate and to grant others the right to operate Restaurants at Non-Traditional Sites within and outside the Protected Territory under any terms and conditions we deem appropriate; (d) acquire and operate a business operating one or more restaurants or food service business located or operating in your Protected Territory; and (e) own, acquire, establish or operate, and license others the right to establish and operate, businesses under other marks or other systems, whether such businesses are the same, similar, or different from your Restaurant, at any location within or outside the Protected Territory.

You may sell authorized products and services to retail customers and prospective retail customers who live anywhere but who choose to dine at your Restaurant. You may not engage in any promotional activities or sell products or services, whether directly or indirectly, through or on the internet, the World Wide Web, or any other similar proprietary or common carrier electronic delivery system (collectively, the “**Electronic Media**”); through catalogs or other mail order devices or by other electronic communications, including toll-free numbers, except that, with our approval, you may place advertisements in printed media and on television and radio and send direct mailings that are targeted to customers and prospective customers located within your Protected Territory. Unless otherwise agreed to in writing under an Area Development Agreement, you have no options, rights of first refusal, or similar rights to develop additional Restaurants. You may not sell any products to any business or other customer at wholesale.

We and our affiliates may sell products under the Marks within and outside your Protected Territory through any method of distribution other than a Taco Pros Restaurant, including sales through other channels of distribution such as the internet, World Wide Web, catalog sales, grocery stores, club stores, telemarketing or other direct marketing sales (together, “**alternative distribution channels**”). You may not use alternative distribution channels to make sales, regardless of whether such sales take place within or outside your Protected Territory. You will not receive any compensation for our sales through alternative distribution channels. Any orders placed through our website for non-menu items (such as merchandise or memorabilia) will be fulfilled by us and you will not receive any portion of our revenue from these sales, even if the order is delivered to a customer within your Protected Territory. We do not have to pay you if we solicit or accept orders from inside your Protected Territory.

As of the issuance date of this Franchise Disclosure Document, we have not established other franchised or company-owned outlets or another distribution channel selling or leasing similar products or services under the Marks or a different trademark, but we reserve the right to do so in the future without first obtaining your consent. We describe earlier in this Item 12 what we may do anywhere and at any time.



**Area Development Agreement:** Under the Area Development Agreement we grant you the right to develop and operate the number of Restaurants within the Development Area that is specified in the Minimum Performance Schedule exhibit, which is attached to the Area Development Agreement. The Development Area is typically described in terms of municipal or county boundaries but may be defined by us as a specified trade area in a municipality by population density. The actual size of the Development Area will vary depending upon the availability of contiguous markets, our long-range development plans, your financial and operational resources, population, and market conditions. Our designation of a particular Development Area is not an assurance or warranty that there are a sufficient number of suitable sites for Restaurants within the Development Area for you to meet your Minimum Performance Schedule. The responsibility to locate and prepare a sufficient number of suitable sites so you can meet the Minimum Performance Schedule is solely yours. We have no obligation to accept sites which do not meet our criteria. While you will receive the territorial protections described in this Item, because we reserve certain rights as described in this Item, you will not receive an “exclusive territory.” You may face competition from other franchisees, from outlets that we own, or from other channels of distribution.

Except as described below or unless otherwise agreed to in writing, during the term of the Area Development Agreement, we and our affiliates will not operate or grant a franchise for the operation of Restaurants to be located within the Development Area. However, we have the right to terminate your territorial rights if you are not in full compliance with all of the terms and conditions of the Area Development Agreement and all of the Franchise Agreements signed under it. Your territorial rights to the Development Area do not include the right to develop Restaurants at any Non-Traditional Site.

Except as expressly limited by the Area Development Agreement, we and our affiliates retain all rights with respect to Taco Pros Restaurants, the Marks, and any products and services anywhere in the world including the right to: (a) produce, offer and sell and to grant others the right to produce, offer and sell the products offered at Restaurants and any other goods displaying the Marks or other trade and service marks through similar or dissimilar channels of distribution, both within and outside the Development Area, under any terms and conditions we deem appropriate; (b) operate and to grant others the right to operate Restaurants located outside the Development Area under any terms and conditions we deem appropriate and regardless of proximity to your Restaurants; (c) operate and to grant others the right to operate Restaurants at Non-Traditional Sites within and outside the Development Area under any terms and conditions we deem appropriate; (d) acquire and operate a business operating one or more Restaurants or food service businesses located or operating within your Development Area; and (e) own, acquire, establish or operate, and license others the right to establish and operate, businesses under other Marks or other systems, whether such businesses are the same, similar, or different from your Restaurants, at any location within or outside the Development Area.

To maintain your rights under the Area Development Agreement you must have open and in operation the cumulative number of Taco Pros Restaurants stated on the Minimum Performance Schedule by the dates agreed upon in the Minimum Performance Schedule. Failure to do so will be grounds for a loss of your exclusive development rights or termination of your Area Development Agreement. When the last Restaurant to be developed under the Area Development Agreement opens, your territorial rights under the Area Development Agreement with respect to the Development Area will terminate and we and our affiliates will have the right to establish and operate and to grant to others development rights and franchises to develop and operate Restaurants within the Development Area, provided such Restaurants will not be located within any Protected Territory we may have otherwise specifically granted to you in writing in a Franchise Agreement. The Development Area may not be altered unless we and you mutually agree to do so. There are no minimum sales goals, market penetration or other contingency that you must

meet to keep the territorial rights granted for your Development Area, except that you must meet your Minimum Performance Schedule.


### **ITEM 13**

#### **TRADEMARKS**

The Franchise Agreement grants franchisees the right to use certain trademarks, trade names, service marks, symbols, emblems, logos and indicia of origin designated by us, including the Marks described in Item 1. These Marks may be used only in the manner we authorize and only for the operation of a Restaurant. The Area Development Agreement does not grant Area Developers the right to use the Marks or our System.

You may not use the Marks as a part of your corporate or other legal name, and you must comply with our instructions in filing and maintaining trade name or fictitious name registrations. You must sign any documents we require to protect the Marks or to maintain their continued validity and enforceability. In addition, you may not directly or indirectly contest the validity of our or our affiliates' ownership or rights in and to the Marks.

Chicago Taco Brothers LLC has licensed us to use and to sublicense our franchisees to use the Marks below. These Marks have been filed with the U.S. Patent and Trademark Office ("USPTO") on the Principal Register as follows:

<b><u>Mark</u></b>	<b><u>Serial No.</u></b>	<b><u>Registration Date</u></b>	<b><u>Registration No.</u></b>	<b><u>Class</u></b>
	97257517	April 25, 2023	7,034,696	43
<b>TACO PROS</b>	90738213	September 13, 2022	6848250	43

All affidavits will be filed at the appropriate time.

There are no currently effective determinations of the USPTO, the Trademark Trial and Appeal Board, the trademark administrator of any state or any court, no pending infringement, opposition or cancellation proceedings and no pending litigation involving any of the Marks that may significantly affect the ownership or use of any of the Marks listed above. Except as described in the next paragraph, there are no agreements currently in effect which limit our right to use or to license others to use the Marks.

We are a party to a trademark license agreement with the Chicago Taco Brothers LLC, under which Chicago Taco Brothers LLC has licensed to us the use of the marks described in this Item 13, including the right to use and license others to use the Marks. Under the License Agreement, we have the right and license, for consecutive 10-year terms, to use the Marks and to license the use of the Marks to our franchisees. The License Agreement may only be terminated if we take any action that is detrimental to the Marks or their goodwill, or upon the consent of both parties.

You must immediately notify us of any apparent infringement of the Marks or challenge to your use of any of the Marks or claim by any person of any rights in any of the Marks. You and your Owners are not permitted to communicate with any person other than us, or any designated affiliate, our counsel and your approved counsel involving any infringement, challenge or claim. We may take any action and have the right to exclusively control any litigation or USPTO or other administrative or agency proceeding caused by any infringement, challenge or claim or otherwise relating to any of the Marks. You must sign any and all documents, and do what, in our counsel's opinion, may be necessary or advisable to protect our interests in any litigation or USPTO or other administrative or agency proceeding or to otherwise protect and maintain our interests and the interests of any other person or entity (including any affiliate) having an interest in the Marks.

We will indemnify you and reimburse you for all damages for which you are held liable for your use of any of the Marks, provided that the conduct of you and your Owners in the proceeding and use of the Marks is in full compliance with the terms of the Franchise Agreement.

Except as provided above, we are not obligated by the Franchise Agreement to protect any rights granted to you to use the Marks or to protect you against claims of infringement or unfair competition with respect to them.

We may require you, at your expense, to discontinue or modify your use of any of the Marks or to use one or more additional or substitute trade names, service marks, trademarks, symbols, logos, emblems and indicia of origin if we determine that an addition or substitution will benefit the System.

The license to use the Marks granted in the Franchise Agreement is non-exclusive to you. We have and retain certain rights in the Marks including the following: (1) to grant other licenses to use the Marks in addition to those licenses already granted to existing franchisees; (2) To develop and establish other systems using the Marks or other names or marks, and to grant licenses or franchises in those systems without providing any rights to you; and (3) to engage, directly or indirectly, at wholesale, retail or otherwise, in (a) the production, distribution, license and sale of products and services that contain the Marks and (b) the use of the Marks and any and all trademarks, trade names, service marks, logos, insignia, slogans, emblems, symbols, designs and other identifying characteristics we may develop for that purpose.

## **ITEM 14**

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

**Patents and Copyrights:** There are no patents or registered copyrights that are material to the franchise. We do, however, claim copyright protection for our printed materials (such as menus, recipes, plans and specifications) and our Manual.

**Confidential Manuals:** You must operate your Restaurant in accordance with the standards and procedures specified in the Manual. One copy of the Manual will be loaned to you by us for the term of your Franchise Agreement, or we may upload an electronic version to a secure website and provide you with access. You must treat the Manual and any other manuals we create or approve for use in your operation of your Restaurant, and the information contained in them, as confidential. You must also use all reasonable efforts to maintain this information as secret and confidential and you must not duplicate, copy, record or otherwise reproduce these materials, in whole or in part, or make them available to any unauthorized person. The Manual remains our sole property and must be kept in a secure place at your Restaurant. We may revise the contents of the Manual from time to time. You must comply with each

new or changed standard and ensure that the Manual is kept current at all times. If there is a dispute regarding the contents of the Manual, the terms of the master copy maintained by us at our home office will be controlling.

**Confidential Information:** We claim proprietary rights in certain of our recipes which are included in the Manual and which are our trade secrets. You and each of your Owners are prohibited, during and after the term of your Franchise Agreement, from communicating, or using for the benefit of any other person or entity, and, after the term of your Franchise Agreement, from using for your or their own benefit, any confidential information, knowledge or know-how concerning the methods of operation of your Restaurant that may be communicated to you or any of your Owners or that you may learn about, including these trade secrets. You and each of your Owners may divulge this confidential information only to your employees who must have access to it to operate your Restaurant. Neither you nor your Owners are permitted at any time, without first obtaining our written consent, to copy, record or otherwise reproduce the materials or information nor make them available to any unauthorized person. Any and all information, knowledge, know-how and techniques related to the System that we communicate to you, including the Manual, recipes, plans and specifications, marketing information and strategies and site evaluation, selection guidelines and techniques, are considered confidential.

If we ask, you must have your General Manager and any of your personnel who have received or will have access to confidential information sign confidentiality covenants similar to the ones described above. Your Owners also must sign these covenants.

If any of your Owners, General Managers or employees develops any new recipe, concept, process or improvement in the operation or promotion of your Restaurant, you must promptly notify us and give us all necessary information regarding such development or improvement, free of charge. Each of your Owners, General Managers and employees must acknowledge that any of these concepts, processes or improvements will become our property and we may give the information to other franchisees. We may, at our sole discretion and at any time, disallow the use of any new concept, process, product, recipe or improvement in the operation or promotion of your Restaurant that you may develop.

## **ITEM 15**

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

The operation of a Taco Pros Restaurant is a complex process requiring the full time and attention of a well-trained Operator. An “**Operator**” is an individual who has ultimate responsibility for day-to-day operating decisions, labor scheduling, hiring, firing, training of staff, customer service standards, restaurant financial controls, and marketing activities, and various additional functions. If you will not be the Operator of your Restaurant, then it is essential that you designate an Operator prior to signing your Franchise Agreement. An Operator must be located within the vicinity of your Restaurant and should have no less than 2 years restaurant experience and 1 year experience as a restaurant general manager for an established restaurant business. We also recommend (but do not require) that the Operator have an equity interest in your Restaurant.

You must also designate and retain at all times an individual to serve as your “General Manager,” who will devote his or her full time and best efforts to supervise and manage your Restaurant. We recommend that the Operator, or another Owner who has the minimum General Manager qualifications set forth in the Franchise Agreement, act as the General Manager. The General Manager must be approved by us and satisfy our educational and business criteria as provided to you in the Manual or other

written instructions. The General Manager also must satisfy our applicable training requirements. If the General Manager cannot serve in the position or does not meet the requirements, he or she must be immediately replaced. We also recommend (but do not require) that the General Manager have an equity interest in your Restaurant.

You must also retain other personnel as are needed to satisfactorily operate and manage your Restaurant. If you hire any employee previously employed by us, our affiliates or another Restaurant in a managerial position, you must pay the former employer its reasonable costs and expenses incurred for training the employee.

You must have any holder of beneficial interest in your franchise, your Operator, your General Manager, and all of your management personnel sign non-competition and confidentiality covenants similar to the covenants you are required to sign with us.

As described in Item 1, we have identified certain persons under the Franchise Agreement that we refer to in this Franchise Disclosure Document as Owners. Owners include spouses of Owners, officers, directors, members and managers, and all holders of an ownership interest in your Restaurant and in any entity that directly or indirectly controls your Restaurant.

Anyone designated as an Owner must sign and agree to be individually bound by certain obligations contained in the Franchise Agreement, including the confidentiality and non-competition covenants. All Owners must personally guarantee performance under your Franchise Agreement.

There are no obligations for Area Developers to grant an equity interest to any employee.

## **ITEM 16**

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

You must sell or offer for sale all menu items, food products, and other products and services that we require, in the manner and style we require. You must sell and offer for sale only the menu items and other products and services that we have expressly approved in writing. You must not deviate from our standards and specifications without first obtaining our written consent. You must discontinue selling and offering for sale any menu items, products or services that we may disapprove in writing at any time. We have the right to change the type of menu items, products and services offered by you at your Restaurant at any time, and there are no limits on our right to make those changes.

You must maintain in sufficient supply and use and sell only the print material, uniforms, food and beverage items, ingredients, products, materials, supplies and paper goods that conform to our standards and specifications. You must prepare all menu items with our recipes and procedures for preparation contained in the Manual or other written instructions, including the measurements of ingredients. You must not deviate from our standards and specifications by the use or offer of nonconforming items, brands or differing amounts of any items.

We reserve the right to determine the minimum and maximum prices, consistent with applicable law, for the goods, products and services offered from your Restaurant. You must comply with the prices required by us, but we make no guarantees or warranties that offering the products or merchandise at the required price will enhance your sales or profits.

You may sell authorized products and services to retail customers and prospective retail customers who live anywhere but who choose to dine at your Restaurant. You may not engage in any promotional activities or sell products or services, whether directly or indirectly, through Electronic Media; through catalogs or other mail order devices or by other electronic communications, including toll-free numbers, except that, with our approval, you may place advertisements in printed media and on television and radio and send direct mailings that are targeted to customers and prospective customers located within your Protected Territory. You may not make any off-premises sales or deliver any products to customers located outside of your Protected Territory, unless the customer is located in an area that is not within the Protected Territory of another Restaurant. Unless otherwise agreed to in writing under an Area Development Agreement, you have no options, rights of first refusal, or similar rights to develop additional Restaurants. You may not sell any products to any business or other customer at wholesale.

Except as described above and in the Franchise Agreement, you are not restricted by any practice or custom with respect to the products and services you may offer to sell or with respect to the customers to whom you sell.

## **ITEM 17**

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

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

<b>Provision</b>		<b>Section in Franchise Agreement</b>	<b>Summary</b>
a.	Length of the Franchise term	3.1	Term continues for 10 years from the date of the Franchise Agreement unless terminated earlier.
b.	Renewal or extension of the term	3.2	Your renewal right gives you the opportunity to continue to be a franchisee. You have the option to renew for two additional 5-year terms, subject to your satisfaction of the pre-conditions listed in c. below.
c.	Requirements for you to renew or extend	3.2	You must provide timely notice of your desire to renew; no defaults under the current Franchise Agreement, lease or sublease and all other agreements between you and us and our affiliates must exist; you must sign current form of Franchise Agreement; pay renewal fee; make required modifications to Restaurant premises and leasehold improvements; extend term of lease or sublease; and others. You may be asked to sign a contract with materially different terms and conditions than your original contract.

Provision		Section in Franchise Agreement	Summary
d.	Termination by you	None	You may terminate your Franchise Agreement on any grounds available by law.
e.	Termination by us without cause	None	
f.	Termination by us with cause	17	Each of your obligations under the Franchise Agreement is a material and essential obligation, the breach of which may result in termination.
g.	Termination by us with cause	17.2	We may terminate your Franchise Agreement for cause if you fail to cure defaults that are curable under within the time periods set forth in your Franchise Agreement. These defaults include, among others, failing to pay any monies owed to us, or our affiliates or vendors, failing to obtain signed copies of the confidentiality and non-competition covenants, failing to procure and maintain required insurance, using the Marks in an unauthorized manner, and failing to secure an accepted location or open your Restaurant when required.
h.	“Cause” defined – non-curable defaults	17.1 and 17.3	We may terminate your Franchise Agreement for cause, without providing a cure period, for certain defaults, including: insolvency, making a general assignment for benefit of creditors, filing a petition or having a petition initiated against you under federal bankruptcy laws, outstanding judgements, selling unauthorized products or services, failing to remodel, defaulting under any lease or related agreement, abandoning or losing right of possession to your Restaurant premises, conviction of a felony or other crime that may have an adverse effect on the System or Marks, transferring any interest without or consent, or maintaining false books or records. In addition, a default under one agreement

Provision		Section in Franchise Agreement	Summary
			with use may result in a termination of all of your agreements with us (a cross-default), and others.
i.	Your obligations on termination/non-renewal	18	Obligations include: cease operations of the Restaurant and use of the Marks and System, de-identify the Restaurant, pay all amounts due to us or our affiliates, return the Manual and all other proprietary materials, comply with confidentiality requirements, pay liquidated damages for lost future royalty fees, and, at our option, sell or assign to us your rights in the Restaurant premises and the equipment and fixtures used in the business, and others.
j.	Assignment of contract by us	14.1	We have the right to transfer or assign the Franchise Agreement to any person or entity who is willing and able to assume our obligations.
k.	“Transfer” by you – definition	14.2(a)	Includes sale, assignment conveyance, pledge, mortgage or other encumbrance by you or any Owner of any interest in your Franchise Agreement, the Restaurant or the legal entity which entered into the Franchise Agreement.
l.	Our approval of transfer by you	14.2(b)	You must obtain our consent before transferring any interest.



Provision		Section in Franchise Agreement	Summary
m.	Conditions for our approval of transfer	14.2(b)	Conditions include payment of all amounts due us or our affiliates, no defaults, execution of a waiver and release of claims, and payment of the transfer fee. Transferee must meet our criteria, attend training and sign the then-current form of Franchise Agreement, and others.
n.	Our right of first refusal to acquire your business	14.4	Within 30 days after our receipt of notice from you, we have the option to purchase the transferred interest on the same terms and conditions as any bone fide offer you receive.
o.	Our option to purchase your business	18.12 and 14.14	Other than our right to purchase your assets on termination, non-renewal or right of first refusal, we have no right or obligation to purchase your business.
p.	Your death or disability	14.5	Upon death or permanent disability of an Owner, the distribute or transferee be approved by us.
q.	Non-competition covenants during the term of the Franchise	10.3(a)	You and your Owners are prohibited from engaging in or being associated with a Competitive Business, or diverting business, or doing anything prejudicial to the System or Marks. A “Competitive Business” offers a similar concept and products and services, and where at least 20% of its sales derive from similar products and services, collectively, or 10% of its sales derive from a similar product, individually.

Provision		Section in Franchise Agreement	Summary
r.	Non-competition covenants after the Franchise is terminated or expires	10.3(b)	For 2 years from expiration or termination of the franchise, the entities described in q. above are subject to the same restrictions described in q. above with respect to activities within 25 miles of any Restaurant in the System.
s.	Modification of the Agreement	20.2	Franchise Agreement may not be modified unless mutually agreed to in writing. You must comply with the Manual, as it may be amended.
t.	Integration/merger clause	20.2	Only the terms of the Franchise Agreement are binding (subject to state law). Any representations or promises outside of the Franchise Disclosure Document and Franchise Agreement may not be enforceable.
u.	Dispute resolution by arbitration or mediation	19.1 and 19.2	Except for the claims described in Section 19.1, all disputes must first be mediated before arbitration may begin.
v.	Choice of forum	19.3	Cook County, Illinois. Subject to state law.
w.	Choice of law	19.4	Illinois. Subject to state law.

### **ITEM 18**

#### **PUBLIC FIGURES**

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

### **ITEM 19**

#### **FINANCIAL PERFORMANCE REPRESENTATIONS**

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

We do not make any representations about a franchisee's future financial performance or the past financial performance of company-owned or franchised outlets. We also do not authorize our employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet, however, we may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor's management by contacting Mr. Bhagyesh Patel at 2200 Stonington Ave, Suite 260, Hoffman Estates, Illinois, 60169-2067, (630) 767-9812, the Federal Trade Commission, and the appropriate state regulatory agencies.

## ITEM 20

### OUTLETS AND FRANCHISEE INFORMATION

**Table No. 1**  
**System-wide Outlet Summary Taco Pros Restaurants**  
**For Years 2020 to 2022**

Outlet Type	Year	Outlets at the Start of the Year	Outlets at the End of the Year	Net Change
Franchised	2020	0	0	0
	2021	0	0	0
	2022	0	1	+1
Company-Owned	2020	1	3	+3
	2021	3	4	+1
	2022	4	5	+1
Total Outlets	2020	1	3	+2
	2021	3	4	+1
	2022	4	6	+2

**Table No. 2**  
**Transfers of Outlets from Franchisees to New Owners (other than the Franchisor)**  
**Taco Pros Restaurants**  
**For Years 2020 to 2022**

State	Year	Number of Transfers
Illinois	2020	0
	2021	0
	2022	0
Total	2020	0
	2021	0
	2022	0

**Table No. 3**  
**Status of Franchised Outlets**  
**Taco Pros Restaurants**  
**For Years 2020 to 2022**

State	Year	Outlets at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations - Other Reasons	Outlets at End of the Year
Illinois	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0

**Table No. 4**  
**Status of Company-Owned Outlets**  
**Taco Pros Restaurants**  
**For Years 2020-2022**

State	Year	Outlets as Start of the Year	Outlets Opened	Outlets Reacquired from Franchisee	Outlets Closed	Outlets Sold to Franchisee	Outlets at End of the Year
Illinois	2020	1	2	0	0	0	3
	2021	3	1	0	0	0	4
	2022	4	2	0	0	0	6
Total	2020	1	2	0	0	0	3
	2021	3	1	0	0	0	4
	2022	4	2	0	0	0	6

**Table No. 5**  
**Projected Openings as of December 31, 2022**  
**Taco Pros Restaurants**

<b>State</b>	<b>Franchise Agreements Signed But Outlet Not Opened</b>	<b>Projected New Franchised Outlets in the Next Fiscal Year</b>	<b>Projected New Company-Owned Outlets in the Current Fiscal Year</b>
Illinois	0	2	2
Total	0	2	2

A list of our franchisees and developers is attached as Exhibit D to this Disclosure Document.

The name, city, state and current business telephone number (or if unknown, the last known home telephone number) of every franchisee and developer who had a business terminated, cancelled, not renewed or otherwise voluntarily or involuntarily ceased to do business under the Franchise Agreement during the most recently completed fiscal year or who has not communicated with us within 10 weeks of the issuance date of this disclosure document will be listed in Exhibit E to this Disclosure Document. **If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.**

During the last three fiscal years, no franchisees have signed confidentiality provisions that restrict their ability to speak openly about their experiences with the Taco Pros System.

There are no trademark-specific organizations formed by our franchisees that are associated with the Taco Pros System.

## **ITEM 21**

### **FINANCIAL STATEMENTS**

Attached to this Franchise Disclosure Document as **Exhibit A** is our audited balance sheet as of December 31, 2022. The franchisor has not been in business for 3 years or more, and cannot include all financial statements required in Instructions 1(i) and (ii) of this Item 21.

Our fiscal year end is December 31.

## **ITEM 22**

### **CONTRACTS**

Attached as Exhibits to this Franchise Disclosure Document are the following contracts:

- |                                        |           |
|----------------------------------------|-----------|
| 1. Franchise Agreement                 | Exhibit B |
| 2. Area Development Agreement          | Exhibit C |
| 3. Sample Waiver and Release of Claims | Exhibit I |

## **ITEM 23**

### **RECEIPTS**

Two copies of an acknowledgement of your receipt of this Franchise Disclosure Document appear at the end of the Disclosure Document. Please return one signed copy to us and retain the other for your records.

**EXHIBIT A**

**FINANCIAL STATEMENTS**

**EXHIBIT B**

**FRANCHISE AGREEMENT AND STATE ADDENDUM**





**TACO PROS INTERNATIONAL LLC**

**FRANCHISE AGREEMENT**

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**FRANCHISEE**

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**DATE**

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## EXHIBITS

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B	Franchisor Addendum
C	Statement of Ownership Interests and Franchisee's Owners
D	Confidentiality and Non-Competition Agreement
E	Electronic Transfer Authorization
F	Internet Web Sites and Telephone Numbers Agreement
G	Power of Attorney (Tax)
H	State Addendum
I	Transfer of a Franchise to a Corporation or Limited Liability Company
J	Guaranty

## FRANCHISE AGREEMENT

**THIS FRANCHISE AGREEMENT** (this “**Agreement**”) is made and entered into by and between **TACO PROS INTERNATIONAL LLC**, an Illinois limited liability whose address is 2200 Stonington Ave., Suite 260, Hoffman Estates, Illinois 60169-2067 (“**we**”, “**us**” or “**our**”) and \_\_\_\_\_, a(n) \_\_\_\_\_ whose \_\_\_\_\_ address \_\_\_\_\_ is \_\_\_\_\_ (“**you**” or “**your**”) and is executed by us as of the latest date set forth below our signatures (the “**Effective Date**”).

### **RECITALS**

**A.** As the result of the expenditure of time, skill, effort and money, we have developed and own a unique and distinctive system (the “**System**”) for the establishment and operation of fast casual restaurants operating under the name “Taco Pros” featuring a variety of taco dishes, burritos, tortas, protein bowls, vegetarian and non-vegetarian Mexican food, beverages, and related food products for dine-in, carry-out and delivery.

**B.** The distinguishing characteristics of the System include, without limitation, distinctive exterior and interior design, construction standards, décor, color scheme and furnishings; specific equipment brands and specifications; proprietary products and ingredients; proprietary recipes and special menu items; uniform standards, specifications and procedures for operations; quality and uniformity of products and services offered; procedures for inventory, management and financial control; training and assistance; and advertising and promotional programs; all of which may be modified, improved and further developed by us from time to time.

**C.** We identify the System by use of certain trade names, service marks, trademarks, logos, emblems and indicia of origin, including, without limitation, the marks “Taco Pros” and such other trade names, service marks, and trademarks as are now designated and may be designated from time to time in the future for use in connection with the System (the “**Marks**”).

**D.** We continue to develop and use the Marks to identify to the public the source of services and products marketed under the Marks and the System, and to represent the System’s high standards of quality, appearance and service.

**E.** You understand and acknowledge the importance of our high standards of quality, cleanliness, appearance and service and the necessity of operating the business franchised under this Agreement in conformity with our standards and specifications.

**F.** You desire to use the System in connection with the operation of a Taco Pros Restaurant at the location accepted by us as, and to receive the training and other assistance provided by us as set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the mutual undertakings and commitments set forth in this Agreement, the receipt and sufficiency of which are hereby acknowledged, you and we hereby agree as follows:

## **SECTION 1**

### **GRANT**

#### **1.1 Grant of Franchise**

In reliance on the representations and warranties of you and, if you are an entity, your Owners (defined in Section 20.14), we grant to you, upon the terms and conditions in this Agreement, the right and license, and you accept the right and obligation, to operate one Taco Pros Restaurant under the Marks and the System, in accordance with all of the terms and conditions contained in this Agreement (your “**Taco Pros Restaurant**”). You and your Owners understand and acknowledge that we have granted you the right to enter into this Agreement in reliance on the business skill, financial capacity, personal character and expectations of performance by you and your Owners.

#### **1.2 Approved Location**

After you have located a site for your Taco Pros Restaurant and received our approval of the site under Section 2.2, the specific street address of the location will be set forth in Exhibit A (“**Approved Location**”). You must not relocate your Taco Pros Restaurant without our express prior written consent. This Agreement does not grant you the right or license to operate your Taco Pros Restaurant or to offer or sell any products or services described under this Agreement at or from any other location. Unless otherwise agreed to in writing under an Area Development Agreement with us, you have no options, rights of first refusal, or similar rights to develop additional restaurants. Until we have approved a location under Section 2.2, Exhibit A will describe the site as “TBD.”

#### **1.3 Relocation**

If you are unable to continue the operation of your Taco Pros Restaurant at the Approved Location, you may request our approval to relocate your Taco Pros Restaurant to another location within the Protected Territory (defined in Section 1.4). Any relocation of your Taco Pros Restaurant is subject to our prior written approval, which we may withhold in our sole discretion. If we elect to grant you the right to relocate your Taco Pros Restaurant, you must comply with the site selection and construction procedures set forth in Section 2.

#### **1.4 Territory**

Upon our approval of a site for your Taco Pros Restaurant in accordance with Section 2.2 and the execution of a lease or purchase agreement for the premises from which your Taco Pros Restaurant will operate, you will be assigned a territory, which will be a certain radius around your Taco Pros Restaurant determined by us (the “**Protected Territory**”), as described in Exhibit A. Except as provided in this Agreement, and subject to your full compliance with this Agreement and any other agreement between you or any of your affiliates (i.e., any entity that is controlled by or controlling or under common control with such other entity) and us, during the Term (defined in Section 3.1), we will not establish or authorize any other person or entity, other than you, to establish a Taco Pros Restaurant within the Protected Territory. You acknowledge and agree that our affiliates currently operate, or may in the future operate, restaurants under different marks and with operating systems that are similar to the System, and that any such restaurants might compete with your Taco Pros Restaurant. You further acknowledge and agree that we may own, acquire, establish and/or operate, and license others the right to establish and operate, businesses under other Marks or other systems, whether such businesses are the same, similar, or different from your Taco Pros Restaurant, at any location within or outside the Protected Territory. You further agree and acknowledge that the license granted under this Agreement is only for the operation of one Taco Pros Restaurant and only at a location we approve.

### 1.5 Our Reserved Rights

Except as expressly limited by Section 1.4, we retain all rights with respect to Taco Pros Restaurants, the Marks and the sale of any products and services and, regardless of the proximity to or financial impact on your Taco Pros Restaurant, including, without limitation, the rights:

(a) to produce, offer, sell and grant others the right to produce, offer and sell the products offered at Taco Pros Restaurants and any other goods displaying the Marks or other trade and service marks through alternative distribution channels, as described below, both within and outside the Protected Territory, under any terms and conditions we deem appropriate. “**Alternative distribution channels**” include, but are not limited to, the internet, catalog sales, retail stores, club stores, telemarketing or other direct marketing sales;

(b) to operate and grant others the right to operate Taco Pros Restaurants located outside the Protected Territory under any terms and conditions we deem appropriate;

(c) to operate and grant others the right to operate Taco Pros Restaurants at non-traditional sites within and outside the Protected Territory under any terms and conditions we deem appropriate. “**Non-traditional sites**” include, without limitation, military bases, Indian reservations, casinos, shopping malls, hotels, educational institutions, airports, train and bus stations, travel plazas, toll roads, beaches, parks and other recreational facilities, government buildings and establishments, prisons, hospitals, convenience stores, cafeterias, snack bars, food trucks, sports or entertainment venues or stadiums, and retail restaurant locations being sublet under a lease to a master concessionaire, whether currently existing or constructed or established subsequent to the date of this Agreement;

(d) to acquire and operate a business operating one or more restaurants or food service businesses located or operating within the Protected Territory; and

(e) to own, acquire, establish and/or operate, and license others to establish and operate, businesses under other proprietary marks or other systems, whether such businesses are the same, similar, or different from your Taco Pros Restaurant, at any location within or outside the Protected Territory.

### 1.6 No Customer Exclusivity

You expressly acknowledge that all Taco Pros Restaurants (regardless of ownership) may solicit and sell products to customers without regard to the customers’ geographic location, including to customers located within the Protected Territory. You further acknowledge that, subject to the standards and procedures for quality products and service specified in the Manual, other Taco Pros Restaurants are permitted to deliver products to customers within the Protected Territory. You may not sell any products to any business or other customer at wholesale.

## **SECTION 2** **SITE SELECTION, PLANS AND CONSTRUCTION**

### 2.1 Your Responsibility to Locate a Site

You assume all cost, liability, expense and responsibility for locating and, after our approval, obtaining and developing a site for your Taco Pros Restaurant, and for constructing, equipping and operating your Taco Pros Restaurant at the Approved Location. You must not make any binding commitment to a prospective vendor or lessor of real estate with respect to a site for your Taco Pros Restaurant unless the site is accepted by us as set forth below. You acknowledge that the location, selection,



procurement and development of a site for your Taco Pros Restaurant is your responsibility; that in discharging such responsibility you should consult with real estate and other professionals of your choosing; and that our approval of a prospective site and the rendering of assistance in the selection of a site does not constitute a representation, promise, warranty or guarantee, express or implied, by us that your Taco Pros Restaurant at that site will be profitable or otherwise successful. You acknowledge and agree that our acceptance of a location for your Taco Pros Restaurant is not a warranty or guarantee, express or implied, by us that you will achieve any particular level of success at the location or that your Taco Pros Restaurant will be profitable, and you hereby waive any such claim. Our acceptance of a location for your Taco Pros Restaurant only signifies that the location meets our then-current minimum criteria for a Taco Pros Restaurant.

## **2.2 Site Selection**

(a) Prior to acquiring by lease or purchase a site for your Taco Pros Restaurant, within one month of the date you sign this Agreement, you must submit to us a description of the site that satisfies the site selection guidelines we provide to you under Section 5.1, together with such other information and materials as we may require, including, without limitation, a letter of intent or other evidence satisfactory to us that confirms your favorable prospects for acquiring the site. If the site is for your second or later Taco Pros Restaurant under an Area Development Agreement (“**ADA**”) between us and you (as the area developer), all such information must be submitted no later than 60 days after the scheduled Opening Date (defined in Section 2.6) of the immediately preceding Taco Pros Restaurant under the ADA. We will have 30 days after receipt of this information to accept or reject, in our sole and unlimited discretion, the proposed site as the location for your Taco Pros Restaurant. No site may be used for the location of your Taco Pros Restaurant unless it is first accepted in writing by us. If we reject the proposed site, we will grant you a one-time additional 30-day period from the date of rejection to submit an alternate site for acceptance.

(b) If you elect to purchase the site for your Taco Pros Restaurant, after receiving our approval of the site, you must submit a copy of the proposed contract of sale to us for our written acceptance prior to its execution. You must also submit to us a copy of the executed contract of sale promptly after its full execution.

(c) If you will occupy the premises of your Taco Pros Restaurant under a lease or sublease, after receiving our approval of the site, you must submit a copy of the lease or sublease to us for written acceptance prior to its execution and must submit to us a copy of the executed lease or sublease promptly after its full execution. We will not accept a lease or sublease for your Taco Pros Restaurant site unless and until a Franchisor Addendum executed by you, us and your lessor, in substantially the form attached as Exhibit B, is attached to the lease and incorporated into the lease. Our approval of any lease may be further conditioned upon the inclusion of any one or more of the following provisions, which may be incorporated into an addendum we provide to you for inclusion in the lease as a required exhibit: (i) authorizing the use of such Marks, trade dress, parking and signage as we may prescribe for your Taco Pros Restaurant; (ii) restricting the use of the leased premises solely to the operation of your Taco Pros Restaurant; (iii) prohibiting you from subleasing or assigning all or any part of your occupancy rights, extending the term of the lease or renewing the lease without our prior written consent; (iv) granting to us or our designee the option, but not the obligation, without the lessor’s further consent, to assume all of your rights under the lease, including the right to assign or sublease, upon your default or termination under the lease or under this Agreement; (v) requiring that the lessor provide us with all notices of default under the lease at the same time it provides such notice to you, and with at least 30 days within which to cure your default; (vi) granting us the right to enter the leased premises to make any modification necessary to protect our Marks or to cure any default under this Agreement or the lease; (vii) prohibiting any amendment to the lease without our prior written consent; and (viii) such other provisions that may be set forth in the Manual (defined in Section 5.4).

(d) After a location for your Taco Pros Restaurant is accepted by us and acquired by you under this Agreement, the location will be described in Exhibit A.

### **2.3 Zoning Clearances, Permits and Licenses**

You are responsible for obtaining all governmental approvals necessary to construct and operate a Taco Pros Restaurant, including without limitation, any zoning classifications and clearances which may be required by state or local laws, ordinances or regulations or which may be necessary as a result of any restrictive covenants relating to your Taco Pros Restaurant premises. Prior to beginning construction of your Taco Pros Restaurant, you must (a) obtain all permits, licenses and certifications required for the lawful construction or remodeling and operation of your Taco Pros Restaurant and (b) certify in writing to us that the insurance coverage specified in Section 12 is in full force and effect and that all required approvals, clearances, permits, licenses and certifications have been obtained. Upon our written request, you must provide to us additional copies of your insurance policies or certificates of insurance and copies of all such approvals, clearances, permits, licenses and certifications.

### **2.4 Design of Taco Pros Restaurant**

You must obtain any architectural, engineering and design services required for the construction of your Taco Pros Restaurant at your own expense from an architectural and design firm approved by us. You must adapt the prototypical architectural and design plans and specifications for construction of your Taco Pros Restaurant in accordance with Section 5.3 as necessary for the construction of your Taco Pros Restaurant and must submit such adapted plans to us for our review no later than 30 days from the execution of your lease or contract for purchase, as the case may be. You may not use any adapted plans or submit them to your landlord or any governmental authority without our prior written approval. If we determine, in our sole discretion, that any such plans are not consistent with the best interests of the System, we may prohibit the implementation of such plans. In this event, we will notify you of any objections and provide you with a list of changes necessary to make the plans acceptable. You must resubmit the plans to us in this fashion until you have received our written approval. You will bear all costs incurred due to plan changes. You must submit the final plans to the appropriate governmental authorities within 2 business days of receiving our approval. You acknowledge that our review of your plans relates only to compliance with the System and that acceptance by us of such plans does not constitute a representation, warranty or guarantee, express or implied, by us that such plans are accurate or free of error concerning their design or structural application, or that the plans comply with any federal, state or local rules, laws, regulations or codes, and you hereby waive any such claims to this effect. Further, under Section 15, you must indemnify and hold us harmless from any liability resulting from any design flaws or construction issues with your Taco Pros Restaurant.

### **2.5 Build-Out of Taco Pros Restaurant**

Promptly upon our approval of the plans, you must commence and diligently pursue construction or remodeling (as applicable) of your Taco Pros Restaurant. Commencement of construction means the time at which any site work is initiated by you or on your behalf at the location accepted for your Taco Pros Restaurant. Site work includes, without limitation, paving of parking areas, installing outdoor lighting and sidewalks, extending utilities, demising of interior walls and demolishing of any existing premises. During the time of construction or remodeling, you must provide us with such periodic reports regarding the progress of the construction or remodeling as we may reasonably request. In addition, we may make such on-site inspections as we may deem reasonably necessary to evaluate such progress. You must notify us of the scheduled date for completion of construction or remodeling no later than 30 days prior to such date. Within a reasonable time after the date of completion of construction or remodeling, we may, at our option, conduct an inspection of your completed Taco Pros Restaurant. You acknowledge and agree that you will

not open your Taco Pros Restaurant for business without our written authorization and that our authorization to open will be conditioned upon your strict compliance with this Agreement.

## **2.6 Opening Date; Time is of the Essence**

You acknowledge that time is of the essence with respect to all dates and times set forth in this Agreement. Subject to your compliance with the conditions stated below, you must open your Taco Pros Restaurant and open for business to the public within 9 months after you sign this Agreement, unless you obtain an extension of such time period from us in writing. The date your Taco Pros Restaurant actually opens for business to the public is called the “**Opening Date**.” You understand and acknowledge that the Opening Date is specific to you and the development of your Taco Pros Restaurant at the Approved Location. Nothing in this section requires us to grant you a later Opening Date or to provide you with any other similar accommodation.

Prior to opening, you must complete all exterior and interior preparations for your Taco Pros Restaurant, including installation of equipment, fixtures, furnishings and signs, in accordance with the plans and specifications approved by us, and you must comply with all of your other pre-opening obligations, including, without limitation, those obligations described in Section 6.4. If you fail to comply with any of such obligations, except for delays caused by Force Majeure act (as described in Section 17.1(d)), you may not commence business. If you do not locate a suitable site for your Taco Pros Restaurant and sign a lease (or otherwise acquire real estate) within 150 days after signing this Agreement, we will have the immediate right to terminate this Agreement without providing you a refund of any fees or costs paid or incurred by you.

## **SECTION 3 TERM AND RENEWAL**

### **3.1 Term**

Unless sooner terminated as provided in Section 17, the initial term of this Agreement commences on the Effective Date and expire 10 years thereafter. The initial term of this Agreement and any renewal term are collectively the “**Term**.”

### **3.2 Renewal**

(a) You have the right to renew the franchise granted by this Agreement for 2 successive renewal terms of 5 years each, as set forth in this Section 3.2, provided you have complied with all the following:

(i) You have given us written notice of your desire to obtain a renewal term not more than 12 months and not fewer than 9 months prior to the end of the initial term or applicable renewal term.

(ii) You have been, throughout the initial term or applicable renewal term of this Agreement, in substantial compliance with this Agreement, and at the expiration of such initial term or applicable renewal term, are in full compliance with this Agreement, your lease or sublease and all other agreements between you and us, or companies associated or affiliated with us.

(iii) You have paid or otherwise fully satisfied all monetary obligations owed to us and our affiliates, and you have timely paid or otherwise satisfied these obligations throughout the initial term or applicable renewal term;

(iv) You have submitted all financial reports required to be submitted to us throughout the initial term or applicable renewal term;

(v) You have submitted to us, at least 6 months before the expiration of the initial term or applicable renewal term of this Agreement, your business plan for the entire renewal term;

(vi) You have executed, at least 30 days before the expiration of the initial term or applicable renewal term of this Agreement, any documents that you are required to execute for the renewal term, including, without limitation, a general release of us, our affiliates and our shareholders, officers and directors, our then-current Franchise Agreement and all other ancillary agreements, instruments and documents then customarily used by us in the granting of Taco Pros Restaurant franchises (which then-current Franchise Agreement may materially differ from this Agreement and be less advantageous to you than the terms of this Agreement); provided, however, that you will not be required to pay any initial franchise fee.

(vii) You have paid to us our renewal fee, which is equal to 50% of our then-current initial franchise fee.

(b) If we do not receive the executed documents and renewal fee by the expiration of the initial term or applicable renewal term, and you have not otherwise complied with this Section 3.2, then this Agreement will expire, you will have no further rights under this Agreement, and you must comply with the provisions of Section 18 and any other provisions that survive termination or expiration of this Agreement.

(c) After we have received from you all executed renewal documents and the renewal fee, we will inspect your Taco Pros Restaurant to determine the extent of any required updating, remodeling, redecorating or other refurbishment required to bring your Taco Pros Restaurant up to our then-current image and standards for new Taco Pros Restaurants. We will provide notice to you of the modifications you will be required to make, and you will have 6 months from the date of such notice to complete such modifications. If you fail or refuse to make the required modifications within the 6-month period, we will have the right to terminate your renewed Franchise Agreement.

(d) You must ensure that your lease, sublease or other document by which you have the right to occupy your Taco Pros Restaurant premises is extended to cover the full renewal term before your renewal term is to take effect.

(e) In the event the renewal of this Agreement is subject to a specific law, rule, regulation, statute, ordinance or legal order that governs franchise agreement renewals, to the extent allowable by the concerned law, rule, regulation, statute, ordinance or order, your renewal term will be subject to the conditions of the Franchise Agreement we are using for new franchisees at the time the renewal term begins. If we are not then offering new franchises, your renewal term will be subject to the terms in the Franchise Agreement that we indicate. If for any reason the preceding sentence is not enforceable for any reason, the renewal term will be governed by the terms of this Agreement.

(f) For the purposes of this Section 3.2, you will be deemed to have irrevocably elected not to renew your franchise and this Agreement (and the option to do so will immediately terminate) if you fail to execute and return to us our then-current Franchise Agreement and other ancillary documents required by us for a renewal term, together with payment of our then-current renewal fee, or if you provide written notice to us within the final 60 days of the initial term indicating that you do not desire to renew this Agreement.

## **SECTION 4**

### **FEES**

#### **4.1 Non-Refundable Initial Franchise Fee**

(a) Upon your execution of this Agreement, you must pay to us an initial franchise fee of \$35,000. Immediately upon payment, the initial franchise fee will be fully earned and non-refundable in consideration of the administrative and other expenses incurred by us in granting the franchise under this Agreement and for our lost or deferred opportunity to grant the franchise to any other party.

(b) Notwithstanding the foregoing, if this Agreement is being executed for a Taco Pros Restaurant developed under the terms of an ADA and is for the first Taco Pros Restaurant to be developed under that ADA, then the franchise fee has been paid in full. If this Agreement is for the second or later Taco Pros Restaurant to be developed under an ADA, then the portion of the franchise fee paid for your Taco Pros Restaurant under the ADA as a reservation fee will be applied to the franchise fee for your Taco Pros Restaurant and upon execution of this Agreement, you must pay the balance of the franchise fee that remains unpaid.

#### **4.2 Royalty Fee**

(a) During the Term, you must pay to us, in partial consideration for the rights granted by this Agreement, a continuing weekly royalty fee (“**Royalty Fee**”) equal to 6% of Gross Sales. The Royalty Fee is due and payable each week based on the Gross Sales for the preceding week so that it is received by us by electronic funds transfer (“**EFT**”) on or before the Tuesday following the end of each week, provided that such day of payment is a business day. If the date on which such payments would otherwise be due is not a business day, then payment will be due on the next business day.

(b) Each Royalty Fee must be accompanied by a royalty report itemizing the Gross Sales for the preceding week ending Sunday (“**Royalty Report**”) and any other reports we may require. The Royalty Report and all other required information must be transmitted to us in the form and manner specified in the Manual or otherwise in writing.

(c) If any state imposes on us a sales or other tax on the Royalty Fees, then we have the right to collect this tax from you.

#### **4.3 Advertising Fund Fee**

In addition to the Royalty Fee described in Section 4.2 above, you must pay us an Advertising Fund Fee (defined below) in an amount equal to 3% of Gross Sales. We will allocate and use the Advertising Fund Fee in the manner described in Section 8. The Advertising Fund Fee is payable to us at the same time and in the same manner as the Royalty Fee.

#### **4.4 Payments to Us**

By executing this Agreement, you agree that we have the right to withdraw funds from your designated bank account each week by EFT in the amount of the Royalty Fee, Advertising Fund Fee and any other payments due to us or our affiliates. If you do not accurately or timely report your Taco Pros Restaurant’s Gross Sales, we may debit your account for 120% of the last Royalty Fee and Advertising Fund Fee. If the Royalty Fee and Advertising Fund Fee we debit are less than the Royalty Fee and Advertising Fund Fee you actually owe to us, once we are able to determine your Taco Pros Restaurant’s true and correct Gross Sales, we will debit your account for the balance on a day we specify. If the Royalty Fee and Advertising Fund Fee we debit are greater than the Royalty Fee and Advertising Fund Fee you

actually owe, we will credit the excess against the amount we otherwise would debit from your account during the following week. You must, upon execution of this Agreement or at any time thereafter at our request, execute such documents or forms as we or your bank determine are necessary for us to process EFTs from your designated bank account for the payments due under this Agreement. If payments are not received when due, we may charge interest as provided in Section 4.5 below. Upon written notice, you may be required to pay such fees directly to us in lieu of EFT, at our sole discretion.

#### **4.5 Interest on Overdue Amounts**

You are not entitled to withhold payments due us under this Agreement on grounds of alleged non-performance by us. Any payment or report not actually received by us on or before its due date shall be deemed overdue and a default under this Agreement. Time is of the essence with respect to all payments to be made by you to us. All unpaid obligations under this Agreement shall bear interest from the date due until paid at the lesser of 18% per annum or the maximum rate allowed by applicable law. Notwithstanding anything to the contrary contained in this Agreement, no provision of this Agreement shall require the payment or permit the collection of interest in excess of the maximum rate allowed by applicable law. If any excess of interest is provided for in this Agreement or shall be adjudicated to be so provided in this Agreement, the provisions of this section shall govern and prevail, and neither you nor your Owners shall be obligated to pay the excess amount of such interest. If for any reason interest in excess of the maximum rate allowed by applicable law shall be deemed charged, required or permitted, any such excess shall be applied as a credit toward any other amounts which may be due and owing under this Agreement, and if no such amounts are due and owing under this Agreement then such excess shall be repaid to the party that paid such excess interest.

#### **4.6 Definition of Gross Sales**

“**Gross Sales**” means the total selling price of all services and products and all income of every other kind and nature related to your Taco Pros Restaurant (including, without limitation, income related to sales or orders of food products or food preparation services provided from or related to your Taco Pros Restaurant), whether for cash or credit and regardless of collection in the case of credit. Gross Sales includes all proceeds from any business interruption insurance. Gross Sales excludes only (i) taxes collected from your customers and paid to the appropriate taxing authority, (ii) customer credits, discounts and refunds or adjustments, and (iii) sales applied towards the sale of gift cards.

#### **4.7 Payment of Additional Fees**

You must pay such other fees or amounts described in this Agreement.

#### **4.8 Reimbursement of Monies Paid on Your Behalf**

If, on your behalf, we pay, or have become obligated to pay, any monies, you must reimburse us in full for all such payments and obligations within 10 days of any written request accompanied by reasonable substantiating material.

### **SECTION 5** **OUR OBLIGATIONS**

#### **5.1 Site Selection Assistance**

We will provide you with our site selection guidelines and such site selection assistance as we may deem advisable. If we provide you with on-site assistance of your proposed site, you must pay us \$300.00 for each day we provide such assistance, as well as the reasonable expenses incurred by us (or our designee) in connection with such assistance, including, without limitation, the costs of travel, lodging and meals.

These services shall be provided at no charge for our first on-site visit.

## **5.2 Construction Assistance**

We may make on-site inspections to evaluate the progress of the construction of your Taco Pros Restaurant. If we determine that more than 2 on-site visits from our construction team are required, you must pay us \$300.00 per day per person for each additional on-site visit beyond 2, plus reimburse our expenses for travel, lodging and meals.

## **5.3 Prototype Design Plans**

We will assist you, your architect and your equipment supplier to design the initial floor plan for your Taco Pros Restaurant, which design will be created at your sole cost and expense.

## **5.4 Confidential Operations Manual**

We will loan you one copy of our confidential Operations Manual and any such other manual or written materials as we may develop for use in your Taco Pros Restaurant as the same may be revised by us from time to time (the “**Manual**”), as more fully described in Section 10.1. The Manual may, in our discretion, be provided electronically or by a website for all Taco Pros Restaurants. The Manual contains information regarding our procedures, standards and specifications, any of which may be modified by us at any time and from time to time. The Manual is incorporated in this Agreement by reference, and you agree to comply with each and every provision contained in the Manual. A violation of the Manual will constitute a breach of this Agreement.

## **5.5 Visits and Evaluations**

We may visit your Taco Pros Restaurant and evaluate the products sold and services rendered from time to time as reasonably determined by us, as more fully described in Section 7.5.

## **5.6 Advertising and Promotional Materials**

We may provide you with advertising and promotional materials and information that we or our affiliates develop from time to time for use by you in marketing and conducting local advertising for your Taco Pros Restaurant. We may require you to purchase and use some or all of such materials, and we may impose a reasonable charge for any required or optional materials for your purchase from us.

## **5.7 Management and Operations Advice**

We will provide you advice as needed in our discretion and may also provide you with written materials concerning techniques of managing and operating your Taco Pros Restaurant as may be developed by us, including any new developments in equipment, food products, packaging, preparation, menu items and food safety and handling procedures.

## **5.8 Products for Resale**

From time to time and at our reasonable discretion, at additional cost, we may make available for resale to your customers certain merchandise identifying the System, such as logoed merchandise and memorabilia. We may specify that you must purchase such merchandise from us, our affiliate, or another designated supplier. Your requirement to purchase such merchandise is subject to customer demand and your inventory on hand.

## **5.9 Approved Suppliers**

We will provide to you a list of approved suppliers as described in Section 7.4 from time to time

as we deem appropriate.

#### **5.10 Initial Training Program**

We will conduct an initial training program for you and your General Manager, as well as other training programs in accordance with the provisions of Section 6.4.

#### **5.11 Opening Assistance**

We will provide on-site opening assistance at your Taco Pros Restaurant in accordance with the provisions of Section 6.4.

#### **5.12 Advertising Fund**

We will establish and administer an advertising fund in accordance with Section 8.

#### **5.13 Delegation of Obligations**

You acknowledge and agree that any duty or obligation imposed on us by this Agreement may be performed by any of our designees, employees, or agents.

### **SECTION 6**

#### **YOUR AGREEMENTS, REPRESENTATIONS, WARRANTIES AND COVENANTS**

##### **6.1 Representations of Owners**

Each of your Owners, jointly and severally, represents, warrants and covenants that all of the representations and warranties contained in this Agreement, including the following, are true, complete, correct and accurate as of the Effective Date, will remain so and at all times during the Term and will survive any termination or expiration of this Agreement:

(a) Your Owners will use their best efforts to timely open and operate your Taco Pros Restaurant so as to achieve optimum sales and will follow our business advice and instructions with respect to your Taco Pros Restaurant's operation.

(b) There are no material liabilities, adverse claims, commitments or obligations of any nature as of the Effective Date, whether accrued, unliquidated, absolute, contingent or otherwise which would inhibit the transactions contemplated by this Agreement and the operation of your Taco Pros Restaurant.

(c) There are no actions, suits, proceedings or investigations pending or, to your knowledge or the knowledge of any of your Owners after due inquiry, threatened, in any court or arbitral forum, or before any governmental agency or instrumentality, nor to the best of your knowledge or the knowledge of any such persons or entities (after due inquiry) is there any basis for any claim, action, suit, proceeding or investigation which affects or could affect, directly or indirectly, any of your assets, properties, rights or business; your right to operate and use your assets, properties or rights to carry on your business; or which affects or could affect your right to assume and carry out in all respects the duties, obligations and responsibilities specified in this Agreement.

(d) None of your Owners is a party to any contract, agreement, covenant not to compete or other restriction of any type which may conflict with, or be breached by, the execution, delivery, consummation or performance of this Agreement.



(e) Each of your Owners will comply with all requirements of all federal, state and local laws, rules, regulations and orders, and shall timely obtain any and all permits, certificates or licenses necessary for the full and proper conduct of your Taco Pros Restaurant, including without limitation, licenses to do business, fictitious name registrations, sales tax permits, fire clearances, health permits, certificates of occupancy and any permits, certificates or licenses required by any environmental law, rule or regulation.

(f) Your Owners will comply and assist us to the fullest extent possible in our efforts to comply, with Anti-Terrorism Laws (defined below). In connection with that compliance, your Owners certify, represent, and warrant that none of your property or interests is subject to being blocked under, and that you and your Owners otherwise are not in violation of, any of the Anti-Terrorism Laws. "Anti-Terrorism Laws" mean Executive Order 13224 issued by the President of the United States, the USA PATRIOT Act, and all other present and future federal, state, and local laws, ordinances, regulations, policies, lists, and other requirements of any governmental authority addressing or in any way relating to terrorist acts and acts of war. Any violation of the Anti-Terrorism Laws by an Owner, or any blocking of any Owner's assets under the Anti-Terrorism Laws, shall constitute good cause for immediate termination of this Agreement.

(g) You must notify us in writing within 2 days of your receipt or knowledge of the commencement of any action, suit or proceeding or of the issuance of any order, writ, injunction, subpoena, request or demand for information, award or decree of any court, agency or other governmental instrumentality, which may affect the operation or financial condition of your Taco Pros Restaurant, the System or any other Taco Pros Restaurant.

## **6.2 Representations of Corporate Entity**

If you are a corporation, limited liability company, partnership or other legal entity, your Owners, jointly and severally represent, warrant and covenant the following, all of which will survive any termination or expiration of this Agreement:

(a) You are duly organized and validly existing under the law of the state of your formation;

(b) You are in good standing, duly qualified and authorized to do business in each jurisdiction in which your business activities or the nature of the properties owned by you require such qualification;

(c) Your corporate charter and operating/partnership/shareholder agreement shall at all times provide that your activities are confined exclusively to the operation of your Taco Pros Restaurant;

(d) The execution of this Agreement and the consummation of the transactions contemplated hereby are within your corporate power have been duly authorized by you and are permitted under your operative documents;

(e) Copies of your articles of incorporation, certificate of organization, bylaws, operating/partnership/shareholder agreement, all other governing documents, any amendments thereto, resolutions authorizing entry into and performance of this Agreement, and any certificates, buy-sell agreements or other documents restricting the sale or transfer of stock/interest, and any other documents as may be reasonably required by us shall be furnished to us prior to the execution of this Agreement. If any amendment or changes to any of these documents will affect any of our rights, your Taco Pros Restaurant or any of the transactions contemplated by this Agreement, you will obtain our written consent and approval

prior to making any such amendment or change;

(f) The ownership of your Owners is accurately and completely described in Exhibit C. Further, you must maintain at all times a current list of all owners of record and all beneficial owners of any class of voting securities or membership interest, as applicable, and will furnish such list of owners to us upon request. No change of ownership shall be made except in compliance with this Agreement and the terms contained in Section 14;

(g) If you are a corporation, each stock certificate representing stock of the corporation shall have conspicuously endorsed upon it a statement in a form satisfactory to us that it is held subject to all restrictions imposed upon assignments by this Agreement; provided, however, that the requirements of this Section 6.2 shall not apply to the transfer of equity securities of a publicly held corporation (defined in Section 20.14). If you are a partnership or limited liability company, your written agreement shall provide that ownership of an interest in the entity is held subject to all restrictions imposed upon assignments by this Agreement;

(h) You must have provided us with your most recent financial statements. Such financial statements present fairly your financial position at the dates indicated therein and with respect to you, the results of your operations and your cash flow for the years then ended. You agree that you must maintain, at all times during the Term, sufficient working capital to fulfill your obligations under this Agreement. Each of the financial statements mentioned above shall be certified as true, complete and correct and shall have been prepared in conformity with generally accepted accounting principles applicable to the respective periods involved and, except as expressly described in the applicable notes, applied on a consistent basis. No material liabilities, adverse claims, commitments or obligations of any nature exist as of the Effective Date, whether accrued, unliquidated, absolute, contingent or otherwise, which are not reflected as liabilities on your financial statements;

(i) If, after the execution of this Agreement, any individual succeeds to or otherwise comes to occupy a position which would, upon designation by us, qualify him or her as one of your Owners, you must notify us within 10 days after any such change and, upon designation of such person by us as one of your Owners, such person shall execute such documents and instruments (including, as applicable, this Agreement) as may be required by us to be executed by others in such positions. If we are not so notified and if this new Owner does not execute the documents we require, you must immediately cause an assignment of and/or purchase any and all interest owned by this individual in your Taco Pros Restaurant; and

(j) Your Owners shall each execute and bind themselves to the confidentiality and non-competition covenants set forth in the Confidentiality and Non-Competition Agreement, annexed hereto as Exhibit D to this Agreement (see Sections 10.2(b) and 10.3(f)). Your Owners shall, jointly and severally, guarantee your performance of all of your obligations, covenants and agreements under this Agreement under the terms and conditions of the guaranty contained in this Agreement, and shall otherwise bind themselves to the terms of this Agreement.

### **6.3 General Manager**

You must designate and retain at all times a general manager (“**General Manager**”), approved by us, to direct the operation and management of your Taco Pros Restaurant. The General Manager shall be responsible for the daily operation of your Taco Pros Restaurant and may be one of your Owners. The General Manager shall, during the entire period he or she serves as General Manager, meet the following qualifications:

(a) Satisfy our educational and business experience criteria as set forth in this Agreement, the Manual or otherwise in writing by us;

(b) Devote full time and best efforts to the supervision and management of your Taco Pros Restaurant; and

(c) Satisfy the training requirements set forth in Section 6.4.

If the General Manager is not able to continue to serve in such capacity or no longer qualifies to serve under the terms of this Section 6.3, you must promptly notify us and designate a replacement within 30 days after the General Manager ceases to serve, such replacement being subject to the same qualifications listed above (including completing all training and obtaining all certifications required by us). You shall provide for interim management of your Taco Pros Restaurant until a replacement is so designated, such interim management to be conducted under the terms of this Agreement.

#### **6.4 Training**

You agree that it is necessary to the continued operation of the System and your Taco Pros Restaurant that your personnel receive such training as we may reasonably require, and accordingly agree as follows:

(a) Not later than 60 days prior to the Opening Date, you, your General Manager and/or at least one additional employee (a minimum of 2 persons) shall attend and complete, to our reasonable satisfaction, our initial training program, including classroom training and training in an operating Taco Pros Restaurant at such location(s) as may be designated by us. At least one of your Owners must successfully complete the initial training program. We will provide our initial training program at our expense for 3 attendees; if you wish to send additional employees to our initial training program and we are able to accommodate your request, whether before your Taco Pros Restaurant opens or while your Taco Pros Restaurant is operating, or if your scheduled opening date is delayed and we require the managers to be trained again, you must pay to us our then-current training fee for each trainee (currently \$1,000 per trainee). In all cases, you are responsible for the travel, lodging, meals, wages and related costs incurred by all attendees.

(b) After the initial manager has successfully completed our initial training program, we may offer a field certification program that allows Assistant Managers who meet certain eligibility requirements to be certified as a manager in an operating franchised restaurant. Other prerequisites and eligibility requirements will be set forth in our Manual. The cost of this in-store certification program will be our then-current training fee for each participant (currently \$1,000 per manager candidate).

(c) Prior to being accepted into the Taco Pros Restaurant certified managers training program the prospective manager must meet the following minimum requirements: General Managers must have a minimum of 2 years of restaurant experience with at least one year in management. All other staff not meeting the above minimum requirements must be employed in a Taco Pros Restaurant for a minimum of 12 months, and 6 of those months must in a supervisory role, before they can be admitted into training. By recommending an employee to us for certification, you represent that the individual has the requisite experience provided above. Additional requirements, if any, will be set forth in the Manual.

(d) We will determine, in our reasonable discretion, whether the General Manager has satisfactorily completed the initial training. If the initial training program is not satisfactorily completed within the required timeframe, you must designate an approved replacement to satisfactorily complete such training. Any replacement or subsequent General Manager must complete such initial training. You

are responsible for our training fees and for any and all expenses incurred by your employees in connection with any initial training program, including, without limitation, costs of travel, lodging, meals and wages.

(e) At all times, each Taco Pros Restaurant must have at least one manager that has been certified by us. Certification is obtained by successfully completing the corporate training program. There must always be at least one certified manager present at your Taco Pros Restaurant during operating hours.

(f) In connection with the opening of your Taco Pros Restaurant, we will provide you with up to 2 of our trained representatives. The trainers will provide on-site pre-opening and opening training, supervision, and assistance to you for a period of up to 7 days around your Taco Pros Restaurant's opening. The number of trainers we provide, and the number of days shall be determined at our sole discretion.

(g) After your Taco Pros Restaurant has opened, if we or you deem necessary or appropriate, we may provide you with additional trained representatives to provide on-site training and assistance to your Taco Pros Restaurant personnel. For this additional training and assistance, you must pay the current per diem fee then being charged to franchisees under the System for the services of such trained representatives, which as of the Effective Date is \$250 per trainer per day, plus travel and lodging expenses.

(h) We reserve the right to conduct additional or refresher training programs, seminars and other related activities regarding the operation of your Taco Pros Restaurant. Such training programs and seminars may be offered to the General Manager or other Taco Pros Restaurant personnel generally, and we may designate that such training programs and seminars are mandatory for your General Manager and other Taco Pros Restaurant personnel. We will present the training program at our cost, or we may use money from the Advertising Fund to do this, but you must pay for your trainees' expenses, including travel, lodging, meals and applicable wages.

## **6.5 Compliance with All Other Obligations**

You must comply with all other requirements set forth in this Agreement and in the Manual and perform such other obligations as we may reasonably establish or request from time to time.

## **SECTION 7** **FRANCHISE OPERATIONS**

### **7.1 Compliance with Standards**

You understand and acknowledge the importance of maintaining uniformity among all Taco Pros Restaurants and therefore you agree to comply with all of our standards and specifications relating to the operation of your Taco Pros Restaurant.

### **7.2 Maintenance of Taco Pros Restaurant**

You must maintain your Taco Pros Restaurant in a high degree of sanitation, repair and condition to our satisfaction, and in connection therewith you must make such additions, alterations, repairs and replacements thereto (none of which shall be made without our prior written consent) as may be required by us for that purpose, including, without limitation, such periodic repainting or replacement of obsolete signs, furnishings, equipment, and décor as we may reasonably direct in order to maintain system-wide integrity and uniformity. Without limiting the foregoing, you must also obtain, at your cost and expense, any new or additional equipment (including point of sale and computer hardware and software systems),

fixtures, supplies and other products and materials which may be reasonably required by us for you to offer and sell new menu items from your Taco Pros Restaurant or to provide your Taco Pros Restaurant services by alternative means, such as through catering or delivery arrangements (which may not be done without our prior written consent). Except as may be expressly provided in the Manual, no material alterations, improvements or changes of any kind in design, equipment, signs, interior or exterior décor items, fixtures or furnishings may be made in or about your Taco Pros Restaurant or its premises without our prior written approval.

### **7.3 Remodeling and Redecorating**

To assure the continued success of your Taco Pros Restaurant, you must, upon our request, remodel or redecorate your Taco Pros Restaurant premises, equipment (including point of sale system, and computer hardware and software), signs, interior and exterior décor items, fixtures, furnishings, supplies and other products and materials required for the operation of your Taco Pros Restaurant to our then-current system-wide standards and specifications. We will not request such remodeling and/or redecorating more frequently than once every 5 years during the Term, except if your Taco Pros Restaurant franchise is transferred under Section 14, we may require the transferee to remodel and/or redecorate the Taco Pros Restaurant premises as described in this Agreement.

### **7.4 Approved Suppliers**

(a) You must comply with all of our standards and specifications relating to the purchase of all print material, uniforms, food and beverage items, ingredients, supplies, materials, fixtures, furnishings, equipment (including point of sale system and computer hardware and software) and other products used or offered for sale at your Taco Pros Restaurant (collectively, “**Items**”). Unless we specify certain suppliers as required in the Manual or otherwise in writing, all suppliers must be pre-approved by us in writing prior to any purchases. All suppliers (including manufacturers, distributors and other sources) must continue to demonstrate the ability to meet our then-current standards and specifications for food and beverage items, ingredients, supplies, materials, fixtures, furnishings, equipment and other items used or offered for sale at Taco Pros Restaurants and must possess adequate quality controls and capacity to supply your needs promptly and reliably. You may not use any supplier who has been disapproved by us. If you desire to purchase, lease or use any products or other items from a supplier who has not yet been approved, you must submit to us a written request for such approval or request the supplier itself to do so. We reserve the right to require you to pay to us our then-current fee for evaluation and testing. You must not purchase or lease from any supplier until and unless we approve such supplier in writing. We have the right to require that our representatives be permitted to inspect the proposed supplier’s facilities, and that samples from the supplier be delivered, either to us or to an independent laboratory designated by us, for testing. We reserve the right, at our option, to re-inspect from time to time the facilities and products of any such approved supplier and to revoke our approval upon the supplier’s failure to continue to meet any of our then-current criteria. Nothing in this Agreement shall be construed to require us to approve any particular supplier. Regardless of our approval, we are not responsible for and provide no guarantees or warranties that the items you purchase from such suppliers conform to our standards or otherwise meet any applicable laws, and you hereby release us from and waive any claim to the contrary, your sole remedy being to pursue the supplier.

(b) You acknowledge and agree that we and our affiliates have the right to collect and retain any and all allowances, rebates, credits, incentives or benefits (collectively, “**Allowances**”) offered by manufacturers, suppliers and distributors to you or to us or our affiliates based upon your purchases of products and services from manufacturers, suppliers and distributors. You assign to us and/or our affiliates all of your right, title and interest in and to any and all such Allowances and authorize us or our affiliates to collect and retain any or all such Allowances without restriction (unless otherwise instructed by the

manufacturer, supplier or distributor).

(c) We may, in our sole discretion, establish one or more strategic alliances or preferred vendor programs with one or more suppliers who are willing to supply all or some Taco Pros Restaurants with some or all of the products or services that Taco Pros Restaurants are authorized to offer to customers. You recognize that any such program may limit or require you to use suppliers other than those that you would otherwise use or limit the number of approved suppliers with whom you may do business.

(d) We reserve the right to restrict your use of suppliers of Items to (i) us; (ii) entities affiliated with us; and/or (iii) third-party suppliers designated by us.

## **7.5 Operation of Taco Pros Restaurant in Compliance with Our Standards**

To ensure you maintain the highest degree of quality and service, you must operate your Taco Pros Restaurant in strict conformity with our methods, standards and specifications set forth in this Section 7.5 and in the Manual, and as may from time to time otherwise be prescribed in writing. You also agree:

(a) To sell or offer for sale all menu items, products and services required by us and in the method, manner and style of distribution prescribed by us, including, without limitation, dine-in, delivery and take-out, only as expressly authorized by us in the Manual or otherwise in writing.

(b) To sell and offer for sale only the menu items, products and services that have been expressly approved for sale in writing by us; to refrain from deviating from our standards and specifications without our prior written consent; and to discontinue selling and offering for sale any menu items, products or services which we may, in our sole discretion, disapprove in writing at any time.

(c) To maintain in sufficient supply and to use and sell at all times only such food and beverage items, ingredients, products, materials, supplies and paper goods that conform to our standards and specifications; to prepare all menu items in accordance with our recipes and procedures for preparation contained in the Manual or other written directives, including, without limitation, the prescribed measurements of ingredients; and to refrain from deviating from our standards and specifications by the use or offer of non-conforming items or differing amounts of any items, without our prior written consent.

(d) To permit us or our agents, during normal business hours, to remove a reasonable number of samples of food or non-food items from your inventory or from your Taco Pros Restaurant, without payment, in amounts reasonably necessary for testing by us or an independent laboratory to determine whether such samples meet our then-current standards and specifications. In addition to any other remedies we may have under this Agreement, we may require you to bear the cost of such testing if the supplier of the item has not previously been approved by us or if the sample fails to conform with our specifications. You will not be responsible for the costs of testing if such samples were from our approved suppliers and they prove to be in conformity with our specifications.

(e) To purchase or lease and install, at your expense, all fixtures, furnishings, equipment (including point of sale system and computer hardware and software), décor items, lighting systems, audio and video systems, signs, delivery vehicles and related items as we may reasonably direct from time to time in the Manual or otherwise in writing; and to refrain from installing or permitting to be installed on or about your Taco Pros Restaurant premises, without our prior written consent, any fixtures, furnishings, equipment, décor items, signs, games, vending machines or other items not previously approved as meeting our standards and specifications. If any of the property described above is leased by you from a third party, such lease shall be approved by us, in writing, prior to execution and must contain

a provision which permits, at our option, an assignment of the lease to us or an affiliate of ours, upon the termination or expiration of this Agreement and which prohibits the lessor from imposing an assignment or related fee upon us in connection with such assignment.

(f) To grant us and our agents the right to enter upon your Taco Pros Restaurant premises, during normal business hours, for the purpose of conducting inspections; to cooperate with our representatives in such inspections by rendering such assistance as they may reasonably request; and, upon notice from us or our agents and without limiting our other rights under this Agreement, to take such steps as may be necessary to correct immediately any deficiencies detected during any such inspection. If you, for any reason, fail to correct such deficiencies within a reasonable time as determined by us, we have the right and authority (without, however, any obligation to do so) to correct such deficiencies and charge you a reasonable fee for our expenses in so acting, payable by you immediately upon demand.

(g) To maintain a competent, conscientious, trained staff and to take such steps as are necessary to ensure that your employees preserve good customer relations and comply with such dress code as we may reasonably prescribe from time to time, to ensure all of your employees pass background tests and drug screens as prescribed in the Manual and meet such other criteria as we may prescribe in writing or in the Manual.

(h) To install and maintain equipment and a telecommunications line in accordance with our specifications to permit us to access and retrieve by telecommunication any information stored on a point of sale system (or other computer hardware and software) you are required to utilize at your Taco Pros Restaurant premises as specified in the Manual, thereby permitting us to inspect and monitor electronically information concerning your Taco Pros Restaurant, Gross Sales, customer lists and databases and such other information as may be contained or stored in such equipment and software. You must obtain and maintain internet access or other means of electronic communication, as specified by us from time to time. Your customer database is considered our property, and we are able to utilize customer database information in any manner we see fit.

(i) To honor all credit, charge, courtesy or cash cards or other credit devices required or approved by us. You must obtain our written approval prior to honoring any previously unapproved credit, charge, courtesy or cash cards or other credit devices. You must expeditiously respond to and adjust any credit card charge that is deemed to be an error or improperly charged to a customer.

(j) To sell or otherwise issue gift cards or certificates (together “**Gift Cards**”) that have been prepared utilizing the standard form of Gift Card provided or designated by us, and only in the manner specified by us in the Manual or otherwise in writing. You must fully honor all Gift Cards that are in the form provided or approved by us regardless of whether a Gift Card was issued by you or another Taco Pros Restaurant. You must sell, issue and redeem (without any offset against any Royalty Fees) Gift Cards in accordance with procedures and policies specified by us in the Manual or otherwise in writing, including those relating to procedures by which you shall request reimbursement for Gift Cards issued by other Taco Pros Restaurants and for making timely payment to us, other operators of Taco Pros Restaurants, or a third-party service provider for Gift Cards issued from your Taco Pros Restaurant that are honored by us or other Taco Pros Restaurant operators.

(k) To pay to us a fine equal to \$250 per each day if you are not selling or offering all prescribed menu items, products and services or are not otherwise in compliance with this Section 7.5, which fine shall be in addition to all other remedies available to us under this Agreement or at law.

## **7.6 Proprietary Products**

You acknowledge and agree that we have developed and may continue to develop for use in the System certain products which are prepared from confidential proprietary recipes, and which are trade secrets of us and our affiliates, and other proprietary products bearing the Marks. Because of the importance of quality and uniformity of production and the significance of such products in the System, it is to the mutual benefit of the parties that we closely control the production and distribution of such products. Accordingly, you agree that if such products become a part of the System, you must use only our secret recipes and proprietary products and shall purchase all of your requirements for such products solely from us or from a source designated by us. You recognize and agree to only use the precise brands of products, and precise product type within the brands, that we specify in our recipes, manuals and order guides. You further agree to purchase from us or our designated supplier for resale to your customers certain merchandise identifying the System as we shall require, such as logoed merchandise, memorabilia and promotional products, in amounts sufficient to satisfy your customer demand.

#### **7.7 Advertising and Promotional Materials**

You must ensure that all advertising and promotional materials, signs, decorations and paper goods (including menus and all forms and stationery) used in your Taco Pros Restaurant, and other items which may be designated by us, bear the Marks in the form, color, location and manner prescribed by us, including, without limitation, notations about your ownership of the Marks, and your status as an independent contractor in accordance with Section 16.2.

#### **7.8 Complaints**

You must process and handle all consumer complaints connected with or relating to your Taco Pros Restaurant, and must promptly notify us by telephone and in writing of all of the following complaints: (a) food related illnesses, (b) environmental, safety or health violations, (c) claims exceeding \$500.00, (d) threatened or filed lawsuits or other regulatory actions, court orders, subpoenas, notices to appear, formal investigations, and the like and (e) any other material claims against or losses suffered by you. You must maintain for our inspection any governmental or trade association inspection reports affecting your Taco Pros Restaurant or equipment located in your Taco Pros Restaurant during the Term and for 30 days after the expiration or earlier termination hereof.

#### **7.9 Power of Attorney**

Upon the execution of this Agreement or at any time thereafter, you shall, at our option, execute such forms and documents as we deem necessary to appoint us as your true and lawful attorney-in-fact with full power and authority, including but not limited to:

(a) The internet website and Telephone Numbers Agreement attached hereto as Exhibit F for the sole purpose of assigning to us only upon the termination or expiration of this Agreement, as required under Section 18.15: (i) all rights to the telephone numbers of your Taco Pros Restaurant and any related and other business listings; and (ii) internet listings, domain names, internet accounts, advertising on the internet or World Wide Web, websites, listings with search engines, e-mail addresses or any other similar listing or usages related to your Taco Pros Restaurant. You agree that you have no authority to and will not establish any website or listing on the internet or World Wide Web without our express written consent, which consent may be withheld at our sole discretion.

(b) Power of Attorney for Taxes for the sole purpose of obtaining any and all returns and reports filed by you with any state or federal taxing authority relating to your Taco Pros Restaurant.

#### **7.10 Unapproved Products and Services**

In the event you sell any food, beverage, products, premiums, novelty items, clothing, souvenirs or



perform any services that we have not prescribed, approved or authorized, you must immediately upon notice from us: (a) cease and desist offering or providing the unauthorized or unapproved food, beverage, product, premium, novelty item, clothing, souvenir or from performing such services and (b) pay to us, on demand, a prohibited product or service fine equal to \$250 per day for each day such unauthorized or unapproved food, beverage, product, premium, novelty item, clothing, souvenir or service is offered or provided by you after written notice from us. The prohibited product or service fine shall be in addition to all other remedies available to us under this Agreement or at law.

#### **7.11 Customer Surveys**

You must participate in all customer surveys and satisfaction audits, which may require that you provide discounted or complimentary products, provided that such discounted or complimentary sales shall not be included in the Gross Sales of your Taco Pros Restaurant. You must also participate in any complaint resolution and other programs as we may reasonably establish for the System, which programs may include, without limitation, providing discounts or refunds to customers. You further acknowledge that we may directly contact such customers who have lodged complaints and provide certain discounts or refunds on your behalf, to be reimbursed by you upon demand.

#### **7.12 Pricing**

Subject to applicable laws, your pricing for the products and services sold by your Taco Pros Restaurant must comply with any maximum price caps and minimum price thresholds that we set. You must participate in and comply with the terms of any special promotional activities that we may periodically establish. You acknowledge that we make no guarantee or warranty that offering such products or merchandise at the recommended or required price will enhance your sales or profits.

#### **7.13 Online Ordering**

Unless we permit your Taco Pros Restaurant to opt out, you must participate in any online ordering program we may establish, whereby your customers are able to place orders for your Taco Pros Restaurant through the internet. You agree to pay any then-current fees to our approved supplier for participation in the online ordering program, and to comply with all rules and procedures applicable to such program. You are also responsible to pay for the integration of such online ordering system with your point-of-sale system to allow orders placed online to be directly and automatically entered into your point-of-sale system.

#### **7.14 Franchisee Meetings**

We reserve the right to hold meetings for all franchisees and other Taco Pros Restaurant operators, which meetings shall not occur more frequently than annually. We shall not be required to hold such meetings until we believe it is prudent to do so. These meetings may be used to provide additional training, introduce new products or changes to the System, or for other business reasons. We may require mandatory attendance at any franchisee meetings for you and/or your General Manager. We may charge you a reasonable fee to cover our costs and expenses associated with organizing and conducting these meetings and/or use monies from the Advertising Fund to assist with these costs. You will be responsible for all expenses incurred by your attendees, including travel, lodging, meals and wages.

#### **7.15 Technology**

(a) The following terms and conditions shall apply with respect to your computer and technology systems:

(i) We have the right to specify or require that certain brands, types, makes or models of communications and computer systems, and hardware to be used by, between, or among Taco

Pros Restaurants, including without limitation: (A) back office and point-of-sale system, data, audio, video and voice storage, retrieval, and transmission systems for use at Taco Pros Restaurants, between or among Taco Pros Restaurants, and between and among your Taco Pros Restaurant and us and you; (B) physical, electronic, and other security systems; (C) printers and other peripheral devices; (D) archival back-up systems; and (E) internet access mode and speed (collectively, the “**Computer System**”).

(ii) We have the right, but not the obligation, to develop or have developed for us, or to designate: (A) computer software programs and accounting system software that you must use in connection with the Computer System (“**Required Software**”), which you must install; (B) updates, supplements, modifications, or enhancements to the Required Software, which you must install; (C) the tangible media upon which you shall record data; and (D) the database file structure of your Computer System.

(iii) You must record all sales on a point-of-sale system approved by us or on such other type of system as may be designated by us in the Manual or otherwise in writing, which shall be deemed part of your Computer System.

(iv) You must make, from time to time, such upgrades and other changes to the Computer System and Required Software as we may request in writing (collectively, “**Computer Upgrades**”).

(v) You must comply with all specifications issued by us with respect to the Computer System and the Required Software, and with respect to Computer Upgrades. You must also afford us unimpeded access to your Computer System and Required Software as we may request, in the manner, form, and at the times requested by us.

(b) We may, from time-to-time, specify in the Manual or otherwise in writing the information that you must collect and maintain on the Computer System, and you must provide to us such reports as we may reasonably request from the data so collected and maintained. All data pertaining to your Taco Pros Restaurant, and all data created or collected by you in connection with the System, or in connection with your operation of your Taco Pros Restaurant (including without limitation data pertaining to or otherwise concerning your Taco Pros Restaurant’s customers) or otherwise provided by you (including, without limitation, data uploaded to, or downloaded from your Computer System) is and will be owned exclusively by us, and we will have the right to use such data in any manner that we deem appropriate without compensation to you. Copies and/or originals of such data must be provided to us upon our request. We hereby license the use of such data back to you for the Term, at no additional cost, solely for your use in connection with the business franchised under this Agreement.

(c) You must abide by all applicable laws pertaining to privacy of information collected or maintained regarding employees, customers or other individuals (“**Privacy**”) and must comply with our standards and policies pertaining to Privacy. If there is a conflict between our standards and policies pertaining to Privacy and applicable law, you must: (i) comply with the requirements of applicable law; (ii) immediately give us written notice of said conflict; and (iii) promptly and fully cooperate with us and our counsel as we may request to assist us in our determination regarding the most effective way, if any, to meet our standards and policies pertaining to Privacy within the bounds of applicable law.

(d) You must comply with our requirements (as set forth in the Manual or otherwise in writing) with respect to establishing and maintaining telecommunications connections between your Computer System and our Intranet (defined in Section 7.16(e)), if any, and such other computer systems as we may reasonably require.

(e) We may establish a website providing private and secure communications between us, you, franchisees, licensees and other persons and entities as determined by us, in our sole discretion (an “**Intranet**”). You must comply with our requirements (as set forth in the Manual or otherwise in writing) with respect to connecting to the Intranet and utilizing the Intranet in connection with the operation of your Taco Pros Restaurant. The Intranet may include, without limitation, the Manual, training or other assistance materials, and management reporting solutions (both upstream and downstream, as we may direct). You must purchase and maintain such computer software and hardware as may be required to connect to and utilize the Intranet.

(f) You must not use the Marks, or any abbreviation or other name associated with us or the System as part of any e-mail address, domain name or other identification of you in any electronic medium. You agree not to transmit or cause any other party to transmit advertisements or solicitations by e-mail or other electronic media without our prior written consent as to your plan for transmitting such advertisements.

(g) You must not hire third-party or outside vendors to perform any services or obligations in connection with the System, Computer System, Required Software, or any other of your obligations without our prior written approval, unless we have designated an approved supplier to provide such services. Our consideration of any proposed outsourcing vendor may be conditioned upon, among other things, such third party or outside vendor’s entry into a confidentiality agreement with us and you in a form that is reasonably provided by us.

(h) You and we acknowledge and agree that changes to technology are dynamic and not predictable within the Term. In order to provide for inevitable but unpredictable changes to technological needs and opportunities, you agree that we have the right to establish, in writing, reasonable new standards for the implementation of technology in the System. You agree that you will abide by those reasonable new standards established by us as if this Section 7 were periodically revised by us for that purpose. You acknowledge and understand that this Agreement does not place any limitations on either our right to require you to obtain Computer Upgrades or the cost of such Computer Upgrades.

## **SECTION 8**

### **ADVERTISING AND RELATED FEES**

Recognizing the value of marketing and promotion, and the importance of the standardization of marketing and promotional programs to the furtherance of the goodwill and public image of the System, you and we agree as follows:

#### **8.1 Participation in Advertising**

We may from time to time develop and create advertising and sales promotion programs designed to promote and enhance the collective success of all Taco Pros Restaurants operating under the System. You must at your cost participate in all such advertising and sales promotion programs in accordance with the terms and conditions established by us for each program. In all aspects of these programs, including, without limitation, the type, quantity, timing, placement and choice of media, market areas and advertising agencies, and standards and specifications established by us will be final and binding upon you.

#### **8.2 Advertising Contribution**

You must contribute to the System-wide Advertising Fund described below in Section 8.2(a) (“**Advertising Fund**”), and also shall make expenditures on local advertising as described below in Section 8.2(b). The Advertising Fund is not a trust fund, and we shall not have any fiduciary duty to you, your

Owners, or any Taco Pros franchisees in connection with the collection or expenditures of the Advertising Fund monies or any other aspect of its operations.

(a) **The Advertising Fund.** We have the right, in our sole discretion, but not the obligation, to establish, maintain and administer the Advertising Fund. The following provisions shall apply to the Advertising Fund:

(i) The Advertising Fund, all contributions thereto, including the Advertising Fund Fee, and any earnings thereon, shall be used exclusively to meet any and all costs of maintaining, administering, directing, conducting, preparing and developing advertising, marketing, public relations, and/or promotional programs and materials including website construction, content and maintenance, and any other activities which we believe will enhance the image of the System, including, among other things, the costs of preparing and conducting marketing campaigns in various media (e.g., television, radio, magazine, newspaper), preparation of direct mail marketing and outdoor billboard advertising; market research; purchasing promotional items; conducting and administering in-restaurant promotions; internet marketing; all forms of social media; public relations activities; costs of our personnel and other departmental costs for advertising that is internally administered or prepared by us; employing advertising and/or public relations agencies to assist in these efforts; and providing promotional and other marketing materials and services to Taco Pros Restaurants. No Advertising Fund monies will be used solely for the purpose of soliciting new franchisees;

(ii) The Advertising Fund will be administered by us or our designees. We shall direct all brand advertising and promotional programs, with sole discretion over the creative concepts, materials, and media used in such programs, and the placement and allocation thereof. You agree and acknowledge that the Advertising Fund is intended to maximize general public recognition and acceptance of the Marks for the benefit of the System and enhance the collective success of all Taco Pros Restaurants operating under the System; and that we are not obligated, in administering the Advertising Fund, to make expenditures for you which are equivalent or proportionate to your contribution, or to ensure that any particular franchisee benefits directly or pro rata from the marketing or promotion conducted under the Advertising Fund;

(iii) You must contribute to the Advertising Fund and all contributions shall be maintained by us in a separate account and also may be used to defray our expenses, costs and overhead we may incur in activities reasonably related to the management, administration or direction of the Advertising Fund, as well as for System marketing and advertising programs, including, among other things, research and development, product development, and the costs of personnel for creating and implementing all such activities; and

(iv) We shall annually prepare and furnish to you, at your request, an unaudited statement of the operations of the Advertising Fund. Any monies remaining in the Advertising Fund at the end of any year will carry over to the next year. You have the right to inspect the Advertising Fund's books and records upon reasonable notice at the location where they are maintained. Although the Advertising Fund is intended to be of perpetual duration, we retain the right to terminate the Advertising Fund at any time, provided that the Advertising Fund is not terminated until all money in the Advertising Fund has been spent for the stated purposes of the Advertising Fund or returned to the contributors. If we elect to terminate the Advertising Fund, we may, in our sole discretion, reinstate the Advertising Fund at any time thereafter. If we so choose to reinstate the Advertising Fund, it will be operated as described in this Agreement.

(b) **Local Advertising.** All marketing and promotional activities shall be conducted in a dignified manner and shall conform to such standards and requirements as set forth in the Manual or

otherwise in writing by us. You must not use any marketing or promotional plans or materials unless and until you have submitted them to us and received our approval in the manner set forth in Section 8.3 below. At our request, you shall furnish to us within 15 days of any request, such evidence as we may reasonably require concerning the nature and amount of your expenditures for local marketing, including verification copies of all advertising and any other information that we require. We have the right to periodically specify, in the Manual or otherwise in writing, the types of mandatory local marketing programs, including minimum required expenditures for such programs.

### **8.3 Conduct of Advertising; Our Approval**

All advertising and promotion by you in any medium must be conducted in a professional manner and must conform to our standards and requirements as set forth in this Agreement, the Manual or otherwise in writing. You must obtain our written approval of all advertising and promotional plans and materials prior to use, except for any plans and materials prepared by us or previously approved by us during the 12 months prior to their proposed use. You must submit such unapproved plans and materials to us, and we will have 15 days to notify you of our approval or disapproval of such materials. If we do not provide our specific approval of the proposed materials within this 15-day period, the proposed materials are deemed not to be approved. We have the right at any time after you commence use of such materials to prohibit further use, effective upon your receipt of such written notice. Anything created by you or on your behalf which includes our Marks or any reference to Taco Pros Restaurants or the System, including any plans and materials that you submit to us for our review will become our property and there will be no restriction on our use or dissemination of such materials. You must not advertise or use the Marks in any fashion on the internet, World Wide Web or via other means of advertising without our express written consent. We may require you to include certain language on all advertising to be used by you, including, without limitation, “Franchises Available” and reference to our telephone number and website.

### **8.4 Grand Opening Advertising**

In addition to the ongoing advertising contributions set forth in this Agreement, you must spend a minimum of \$10,000 on a grand opening advertising campaign to advertise the opening of your Taco Pros Restaurant. We will designate the appropriate time for the grand opening following your Taco Pros Restaurant’s opening. You must not begin your grand opening campaign until we are satisfied that you employees are adequately trained, and your Taco Pros Restaurant is adequately stocked and staffed. All advertisements proposed to be used in the grand opening advertising campaign are subject to our review and approval in the manner set forth in this Section 8. You acknowledge that we will not schedule your Taco Pros Restaurant opening, and your opening may be delayed, until you have received our approval of your grand opening advertising campaign. We may, in our discretion, require that your grand opening advertising campaign include certain promotional giveaways.

### **8.5 Websites**

As used in this Agreement, the term “website” means an interactive electronic document, series of symbols, or otherwise, that is contained in a network of computers linked by communications software. The term website includes, but is not limited to, internet and World Wide Web home pages. In connection with any website, you agree to the following:

(a) We have the right, but not the obligation, to establish and maintain a website, which may, without limitation, promote the Marks, Taco Pros Restaurants and any or all of the products offered at Taco Pros Restaurants, the franchising of Taco Pros Restaurants, and the System. We shall have the sole right to control all aspects of any website, including without limitation its design, content, functionality, links to the websites of third parties, legal notices, and policies and terms of use. We shall also have the right to discontinue operation of the website.

(b) We have the right, but not the obligation, to designate one or more web pages to describe you and your Taco Pros Restaurant, with such web pages to be located within our website. You must comply with our policies with respect to the creation, maintenance and content of any such web pages; and we have the right to refuse to post any content and to discontinue posting any content and/or the operation of any web page.

(c) You must not establish a separate website related in any manner to your Taco Pros Restaurant, the Marks or the System without our prior written approval, which we are not obligated to provide. If approved to establish such a website, you must comply with our policies, standards and specifications with respect to the creation, maintenance and content of any such website. If such approval is given, you will assure that at all times we will have administrative access to such website and we may, at our sole discretion, alter or cease the use and visibility of the website. If we, at our sole discretion deem the website is operating or communicating a message outside of our brand standards, we may change the password of the website and take control of the content communicated to the public. You specifically acknowledge and agree that any such website owned or maintained by you or for your benefit shall be deemed “advertising” under this Agreement and will be subject to (among other things) our approval under this Section 8.

(d) You understand and agree that you may not promote your Taco Pros Restaurant or use any Mark in any manner on social or networking websites, including, without limitation, Facebook, LinkedIn, Yelp!, Twitter or Google Local without our prior written consent. If such consent is given, you will assure that at all times we have administrative access to such social or networking websites and may, at our sole discretion, alter or cease the use and visibility of any such social or networking websites. If we, in our sole discretion deem the social or networking website is operating or communicating a message outside of our brand standards, we may change the password of the social or networking website and take control of the content communicated to the public.

(e) You understand and acknowledge that all domain names related to us will be registered and owned by us or our affiliate. You must not register any domain names related in any manner to Taco Pros or your Taco Pros Restaurant.

## **SECTION 9**

### **MARKS**

#### **9.1 Use of Marks**

Subject to this Agreement and your continued compliance with all of the terms contained in this Agreement, we grant you a non-exclusive, revocable license to use the Marks during the Term in accordance with the System and related standards and specifications.<sup>5</sup>

#### **9.2 Ownership of Marks; Limited License**

You expressly understand and acknowledge that:

(a) We are the owner or the licensee of the owner of all right, title and interest in and to the Marks and the goodwill associated with and symbolized by them.

(b) Neither you nor any Owner shall take any action that would prejudice or interfere with the validity of our rights with respect to the Marks. Nothing in this Agreement gives you any right, title or interest in or to any of the Marks or any service marks, trademarks, trade names, trade dress, logos,

copyrights or proprietary materials, except the right to use, with our approval, the Marks and the System in accordance with the terms and conditions of this Agreement for the operation of your Taco Pros Restaurant and only at or from its Approved Location or in approved advertising related to your Taco Pros Restaurant.

(c) You understand and agree that your limited license to use the Marks applies only to such Marks as are designated by us, and which are not subsequently designated by us as being withdrawn from use, together with those which may hereafter be designated by us in writing. You expressly understand and agree that you are not permitted to represent in any manner that you have acquired any ownership or equitable rights in any of the Marks by virtue of the limited license granted under this Agreement, or by virtue of your use of any of the Marks.

(d) You understand and agree that all goodwill arising from your use of the Marks and the System inure solely and exclusively to our benefit, and upon expiration or termination of this Agreement and the license granted by this Agreement, no monetary amount shall be assigned as attributable to any goodwill associated with your use of the Marks.

(e) You must not contest the validity of or our interest in the Marks or assist others to contest the validity of or our interest in the Marks.

(f) Any unauthorized use of the Marks will constitute an infringement of our rights in the Marks and a non-curable default under this Agreement. You agree that you will provide us with all assignments, affidavits, documents, information and assistance we reasonably request to fully vest in us all such rights, title and interest in and to the Marks, including all such items as are reasonably requested by us to register, maintain and enforce such rights in the Marks.

(g) If it becomes advisable at any time, in our sole discretion, to modify or discontinue use of any Mark and/or to adopt or use one or more additional or substitute proprietary marks, then you will be obligated to comply with any such instruction by us. We will not have any obligation in such event to reimburse you for your documented expenses of compliance. You waive any claim arising from or relating to any Mark change, modification or substitution. We will not be liable to you for any expenses, losses or damages sustained by you as a result of any Mark addition, modification, substitution or discontinuation. You covenant not to commence or join in any litigation or other proceeding against us for any of these expenses, losses or damages.

### **9.3 Limitation on Use of Marks**

With respect to your licensed use of the Marks under this Agreement, you further agree that:

(a) Unless otherwise authorized or required by us, you must operate and advertise your Taco Pros Restaurant only under the name “Taco Pros” or “Taco Pros Restaurant” without prefix or suffix. You must not use the Marks as part of your corporate or other legal name and shall obtain our approval of such corporate or other legal name prior to filing it with the applicable state authority.

(b) During the Term, you must identify yourself as the independent owner of your Taco Pros Restaurant in conjunction with any use of the Marks, including, without limitation, uses on invoices, order forms, receipts and contracts, as well as the display of a notice in such content and form and at such conspicuous locations on the premises of your Taco Pros Restaurant or any delivery vehicle as we may designate in writing.

(c) You must not use the Marks to incur any obligation or indebtedness on our behalf.

(d) You must comply with our instructions in filing and maintaining the requisite trade name or fictitious name registrations and shall execute any documents deemed necessary by us or our counsel to obtain protection of the Marks or to maintain their continued validity and enforceability.

(e) You must not use any of the Marks or distribute any materials that contain the Marks without our prior written approval. Any materials created by you or on your behalf which contain the Marks will be deemed to be owned by us.

(f) You must not file with the United States Patent and Trademark Office, or any other authority, any trademarks or copyrights that in any way relate to our Marks, the System or your Taco Pros Restaurant.

#### **9.4 Notification of Infringement or Claim**

You must notify us immediately by telephone and thereafter in writing of any apparent infringement of or challenge to your use of any Mark, or any claim by any person of any rights in any Mark. You and your Owners shall not communicate with any person other than us, our counsel and your counsel in connection with any such infringement, challenge or claim. We will have complete discretion to take such action as we deem appropriate in connection with the foregoing, and the right to control exclusively, any settlement, litigation or Patent and Trademark Office or other proceeding arising out of any such alleged infringement, challenge or claim or otherwise relating to any Mark. You agree to execute any and all instruments and documents, render such assistance, and do such acts or things as we, in our opinion, reasonably believe necessary or advisable to protect and maintain our interests in any litigation or other proceeding or to otherwise protect and maintain the interests of us or any other interested party in the Marks. We will indemnify you and hold you harmless from and against any and all claims, liabilities, costs, damages and reasonable expenses for which you are held liable in any proceeding arising out of your use of any of the Marks (including settlement amounts), provided that the conduct of you and your Owners with respect to such proceeding and use of the Marks is in full compliance with the terms of this Agreement.

#### **9.5 Retention of Rights by Us**

The right and license of the Marks granted under this Agreement to you is non-exclusive and we thus have and retain the following rights, among others, subject only to the limitations of Section 1:

(a) To grant other licenses for use of the Marks, in addition to those licenses already granted to existing franchisees;

(b) To develop and establish other systems using the Marks or other names or marks and to grant licenses to all of them without providing any similar rights to you; and

(c) To engage, directly or indirectly, through our employees, representatives, licensees, assigns, agents and others, at wholesale, retail or otherwise, in (i) the production, distribution, license and sale of products and services containing the Marks and (ii) the use in connection with such production, distribution and sale, of the Marks and any and all trademarks, trade names, service marks, logos, insignia, slogans, emblems, symbols, designs and other identifying characteristics as may be developed or used from time to time by us.

### **SECTION 10**

#### **CONFIDENTIALITY AND NON-COMPETITION COVENANTS**

##### **10.1 Confidential Operations Manual**



(a) To protect our reputation and goodwill and to maintain high standards of operation under the Marks, you must conduct your business in accordance with the Manual, other written directives which we may issue to you from time to time whether or not such directives are included in the Manual, and any other manuals and materials created or approved by us for use in the operation of your Taco Pros Restaurant. Specifications, standards and operating procedures prescribed from time to time in the Manual or updates to the Manual, or otherwise communicated to you in writing constitute provisions of this Agreement as if fully set forth in this Agreement and must be kept confidential by you at all times during the term of this Agreement and after the termination or expiration of this Agreement for any reason.

(b) You and your Owners shall at all times treat the Manual, any of our written directives, and any other manuals and materials provided by us, and the information contained therein as confidential, and shall maintain such information as trade secrets and confidential in accordance with this Section 10. You and your Owners shall divulge and make such materials available only to such of your employees as must have access to them in order to operate your Taco Pros Restaurant. You and your Owners shall not at any time change, amend, copy, duplicate, record or otherwise reproduce these materials, in whole or in part, or otherwise make the same available to any person other than those authorized above.

(c) The Manual, written directives, other manuals and materials and any other confidential communications provided or approved by us shall at all times remain our sole property, shall at all times be kept in a secure place on your Taco Pros Restaurant premises, and shall be returned to us immediately upon request or upon termination or expiration of this Agreement.

(d) The Manual, any written directives, and any other Manual and materials issued by us and any modifications to such materials shall supplement and be deemed part of this Agreement.

(e) We may from time to time revise the contents of the Manual or any other manuals and materials created or approved by us for use in the operation of your Taco Pros Restaurant. You must remove and return to us or destroy all pages of the Manual that have been replaced or updated by us. You expressly agree to comply with each new or changed standard.

(f) You must at all times ensure that the Manual is kept current and up to date. In the event of any dispute as to the contents of the Manual, the terms of the master copy of the Manual maintained by us at our headquarters shall control. You may request a master copy of the Manual upon paying a reasonable fee to cover our administrative costs.

## **10.2 Confidential Information**

(a) Neither you nor any Owner shall, during the Term or thereafter, communicate, divulge or use for the benefit of any other individual or entity, use for their own benefit any confidential information, knowledge or know-how concerning the methods of operation of your Taco Pros Restaurant which may be communicated to them or of which they may be apprised in connection with the operation of your Taco Pros Restaurant under the terms of this Agreement. You and your Owners shall divulge such confidential information only to such of your employees as must have access to it in order to operate your Taco Pros Restaurant. Any and all information, knowledge, know-how, techniques and any materials used in or related to the System which we provide to you in connection with this Agreement shall be deemed confidential for purposes of this Agreement. Neither you nor your Owners shall at any time, without our prior written consent, copy, duplicate, record or otherwise reproduce such materials or information, in whole or in part, nor otherwise make the same available to any unauthorized person. The covenants in this Section 10.2 shall survive the expiration, termination or transfer of this Agreement or any interest in this Agreement and shall be perpetually binding upon you and each of your Owners, unless and until you demonstrate conclusively that the information has become public knowledge and was not released by you

or anyone under your control or anyone with a duty to keep the information confidential.

(b) You must require and obtain the execution of covenants similar to those set forth in Section 10.2(a) from your General Manager and all other of your personnel who have received or will have access to confidential information, including any of your Owners even if such Owners were not required to sign this Agreement. Such covenants shall be substantially in the form set forth in Exhibit D.

(c) If you, your Owners, your General Manager or any of your employees develop any new concept, process, product, recipe, or improvement in the operation or promotion of your Taco Pros Restaurant during the Term, you are required to promptly notify us and provide us with all necessary related information, without compensation. You and your Owners acknowledge that any such concept, process, product, recipe, or improvement will become our property, and we may use or disclose such information to other franchisees as we determine to be appropriate. We may, at our sole discretion and at any time, disallow the use of any new concept, process, product, recipe or improvement in the operation or promotion of your Taco Pros Restaurant that you may develop.

### 10.3 Non-Competition

(a) You and your Owners acknowledge that each will receive valuable training, trade secrets and confidential information, including without limitation, information regarding the operational, sales, promotional and marketing methods and techniques of us and the System which are beyond the present skills and experience of you, your Owners and your managers and employees. You and your Owners acknowledge that such specialized training, trade secrets and confidential information provide a competitive advantage and will be valuable to them in the development and operation of your Taco Pros Restaurant, and that gaining access to such specialized training, trade secrets and confidential information is, therefore, a primary reason why they are entering into this Agreement. In consideration for such specialized training, trade secrets and confidential information (including, without limitation, information regarding the operational, sales, promotional and marketing methods and techniques of us and the System which are beyond the present skills and experience of you, your Owners and your managers and employees), during the Term, neither you nor any of your Owners shall, either directly or indirectly, for themselves or through, on behalf of or in conjunction with any person, partnership, corporation, LLC, or other entity anywhere in the world:

(i) Divert, or attempt to divert, any business or customer of your Taco Pros Restaurant or a customer of any other Taco Pros Restaurant to any Competitive Business (defined below), by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the System.

(ii) Own, maintain, operate, engage in, or have any financial or beneficial interest in (including any interest in corporations, LLCs, partnerships, trusts, unincorporated associations or joint ventures), advise, assist, consult, make loans to, or lease or sublease to, any fast-food or quick-service restaurant which prepares or sells, for on- or off-premises consumption Mexican or Mexican-style food products (a “**Competitive Business**”), wherever located.

(b) In addition, for a continuous uninterrupted period of 2 years, commencing upon the expiration or termination of this Agreement or the date you transfer your Taco Pros Restaurant and continuing for a period of 2 years, neither you, nor any of your Owners shall, directly or indirectly, for themselves, or through, on behalf of or in conjunction with any person, partnership, corporation, LLC, or other entity:

(i) Divert, or attempt to divert, any business or customer of your former Taco

Pros Restaurant or any other Taco Pros Restaurant to any Competitive Business, by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the System.

(ii) Employ, or seek to employ, any person who is at that time or was within the preceding 90 days employed by you, us, or by any other franchisee or area developer of ours, or otherwise directly or indirectly induce such person to leave that person's employment, except as may be permitted under any existing ADA or franchise agreement between us and you.

(iii) Own, maintain, operate, engage in, or have any financial or beneficial interest in (including any interest in corporations, LLCs partnerships, trusts, unincorporated associations or joint ventures), advise, assist, consult, make loans to, or lease or sublease to, any Competitive Business, which business is, or is intended to be, located within a 15-mile radius of the location of any Taco Pros Restaurant, including the location of your former Taco Pros Restaurant, regardless of whether any such Taco Pros Restaurant is open and operating, under construction, or we or a franchisee has committed to develop a Taco Pros Restaurant in such location.

(c) The parties acknowledge and agree that each of the covenants contained in this Agreement are reasonable limitations as to time, geographical area, and scope of activity to be restrained and do not impose a greater restraint than is necessary to protect our goodwill or other business interests. The parties agree that each of the covenants in this Agreement shall be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant in this Section 10.3 is held unreasonable or unenforceable by a court or agency having valid jurisdiction in an unappealed final decision to which we are a party, you and your Owners expressly agree to be bound by any less restrictive covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated in and made a part of this Section 10.

(d) You and your Owners expressly agree that the existence of any claims they may have against us, whether or not arising from this Agreement, shall not constitute a defense to our enforcement of the covenants in this Section 10.

(e) Sections 10.3(a)(ii) and 10.3(b)(iii) shall not apply to ownership of less than a 5% beneficial interest in the outstanding equity securities of any publicly traded corporation.

(f) You must require and obtain execution of covenants similar to those set forth in this Section 10.3 (including covenants applicable upon the termination of a person's employment with you) from your General Manager and all other of your personnel who have received or will have access to training from us, including any of your Owners, even if those Owners were not required to sign this Agreement. Such covenants shall be substantially in the form set forth in Exhibit D.

#### **10.4 Failure to Comply**

You and your Owners acknowledge that any failure to comply with the requirements of this Section 10 shall constitute a material default under Section 17. You and your Owners acknowledge that a violation of the terms of this Section 10 would result in irreparable injury to us for which no adequate remedy at law may be available, and you and your Owners accordingly consent to the issuance of an injunction without bond prohibiting any conduct by you or your Owners in violation of the terms of this Section 10. You and your Owners agree to pay all court costs and reasonable attorneys' fees incurred by us in connection with the enforcement of this Section 10, including payment of all costs and expenses for obtaining specific performance of, or an injunction against violation of, the requirements of this Section 10.

## **SECTION 11**

### **BOOKS AND RECORDS**

#### **11.1 Books and Records**

You must maintain during the Term, and preserve for at least 7 years from the dates of their preparation, full, complete and accurate books, records and accounts, including, without limitation, point-of-sale records, sales slips, credit card slips and records, coupons, purchase orders, payroll records, check stubs, bank statements, forms 1099 and 1099-K, sales tax records and returns, all records generated by third-party food delivery services (including without limitation sales and payment records), cash receipts and disbursements, journals and ledgers, records of EFT transactions, backup or archived records of information maintained on any computer system and such other and additional business records that we may specify from time to time, in accordance with generally accepted accounting principles and in the form and manner prescribed by us from time to time in the Manual or otherwise in writing. All books and records must be capable of being reviewed by us without special hardware or software. Within fifteen days after our written request from time to time, you must transmit to us in electronic form, any or all of these records to us at your sole cost and expense.

#### **11.2 Reports**

In addition to the Royalty Report required by Section 4, you must, at your expense and without prior demand by us, submit the following, in a form and manner prescribed by us:

(a) Monthly profit and loss statements of your Taco Pros Restaurant (which may be unaudited) within 10 days after the end of each month during the Term (or other time period we establish). Each such statement shall be signed by your treasurer or chief financial officer or comparable officer attesting that it is true, complete and correct;

(b) Complete annual financial statement (which shall be reviewed) of your Taco Pros Restaurant prepared by an independent certified public accountant, within 90 days after the end of each fiscal year during the Term, showing the results of operations of your Taco Pros Restaurant during such fiscal year. We reserve the right to require such financial statements to be audited by an independent certified public accountant satisfactory to us at your cost and expense if an inspection discloses an understatement of payments due to us of 2% or more in any report, under Section 11.3; and

(c) Such other forms, reports, records, information and data as we may reasonably designate, and which pertain to your Taco Pros Restaurant, in the form and at the times and places reasonably required by us, upon request and as specified from time to time in writing.

#### **11.3 Inspections; Audits**

If we conduct a review, audit or examination of your books and records and we determine that any required Royalty Fee or other payments due to us are delinquent, or if an inspection reveals that such payments have been understated in any report to us, then you must immediately pay to us the amount overdue or understated upon demand with interest determined in accordance with the provisions of Section 4.5. If an inspection discloses an understatement in any report of 2% or more, you must, in addition, reimburse us for all costs and expenses connected with the inspection (including, without limitation, reasonable accounting and attorneys' fees). These remedies shall be in addition to any other remedies we may have at law or in equity.

#### **11.4 Correction of Errors**

You understand and agree that our receipt or acceptance of any of the statements furnished or

Royalty Fees paid to us (or the cashing of any royalty checks or processing of any EFTs) shall not preclude us from questioning the correctness thereof at any time and, in the event that any inconsistencies or mistakes are discovered in such statements or payments, they shall immediately be rectified, and the appropriate payment shall be made by you.

#### **11.5 Authorization of Us**

You authorize (and agree to execute any other documents deemed necessary to effect such authorization) all banks, financial institutions, credit card processors, businesses, suppliers, manufacturers, contractors, vendors, third-party delivery services and other persons or entities with which you do business to disclose to us any requested information in their possession relating to you or your Taco Pros Restaurant. You authorize us to disclose data from your reports, including Gross Sales, if we determine, in our sole and absolute discretion, that such disclosure is necessary or advisable, which disclosure may include disclosure to prospective or existing franchisees, landlords, brokers, lenders and other third parties.

#### **11.6 We are Attorney-in-Fact**

Notwithstanding any forms and documents which may have been executed by you under Section 7.9, you hereby appoint us as your true and lawful attorney-in-fact with full power and authority, for the sole purpose of obtaining any and all returns and reports filed by you with any state and/or federal taxing authority pertaining to your Taco Pros Restaurant. This power of attorney shall survive the expiration or termination of this Agreement.

### **SECTION 12** **INSURANCE**

**12.1** You must procure, upon execution of this Agreement, and shall maintain in full force and effect at all times during the Term (and for such period thereafter as is necessary to provide the coverages required under this Agreement for events having occurred during the Term) at your expense, an insurance policy or policies protecting you and us, our successors and assigns, our officers, directors, shareholders, partners, agents, representatives, independent contractors and employees of each of them against any demand or claim with respect to personal or bodily injury, death or property damage, or any loss, liability or expense whatsoever arising or occurring upon or in connection with your Taco Pros Restaurant.

**12.2** Such policy or policies referred to above shall be written by a responsible, duly licensed carrier or carriers reasonably acceptable to us and shall include, at a minimum (except as additional coverages and higher policy limits may reasonably be specified by us from time to time), the following:

(a) General liability in the amount of \$1,000,000 per occurrence, \$2,000,000 general aggregate limit, including products/completed operations liability.

(b) "All Risk" coverage for the full cost of replacement of your Taco Pros Restaurant premises and all other property in which we may have an interest with no coinsurance clause applicable.

(c) Business Interruption insurance in a sufficient amount to cover net profits, the cost of key personnel to be retained, the payment of royalties and fees due to us throughout the period your Taco Pros Restaurant is not operational and continuing expenses for a period of at least one year.

(d) Liquor liability coverage of not less than \$1,000,000 per occurrence, \$2,000,000 in the aggregate (if liquor/beer is sold, served or distributed).

(e) Workers' compensation insurance in amounts provided by applicable law (but not less than \$500,000 per occurrence for employer's liability) or, if permissible under applicable law, a legally appropriate alternative providing substantially similar compensation for injured workers reasonably satisfactory to us.

(f) Automobile Liability covering all owned and non-owned vehicles with limits of \$1,000,000 Combined Single Limit Bodily Injury/Property Damage.

(g) Umbrella/Excess Liability with limits of \$1,000,000 Bodily Injury/Property Damage, recognizing underlying coverage for General Liability, Automobile Liability and Employer's Liability for the required limits.

(h) In connection with any construction, renovation, refurbishment or remodeling of your Taco Pros Restaurant, Builder's Risks/installation insurance in forms and amounts satisfactory to us.

(i) Builders Risk Insurance at such coverage of not less than \$1,000,000 per occurrence, \$2,000,000 in the aggregate which must be active prior to any construction or site examinations of your Taco Pros Restaurant premises.

(j) Such other insurance as may be required by the state or locality in which your Taco Pros Restaurant is located and operated or as may be required by the terms of the lease for your Taco Pros Restaurant.

**12.3** You may, with our prior written consent, elect to have reasonable deductibles in connection with the coverages required in this Section 12. Such policies shall also include a waiver of subrogation in favor of us, our affiliates, and our respective officers, directors, shareholders, partners, agents, representatives, independent contractors, servants and employees.

**12.4** Your obligation to obtain and maintain the foregoing policy or policies in the amounts specified shall not be limited in any way by reason of any insurance which may be maintained by us, nor shall your performance of that obligation relieve you of liability under the indemnity provisions set forth in Section 15 of this Agreement.

**12.5** All general liability and property damage policies shall contain a provision that we, our affiliates and the officers, directors, shareholders, partners, agents, representatives, independent contractors, servants and employees of each of them, although named as insureds, shall nevertheless be entitled to recover under such policies on any loss occasioned to us or our representatives, servants, agents or employees by reason of the negligence of you or your principals, partners, members, officers, directors, representatives, servants, agents or employees.

**12.6** Not later than 30 days before your Taco Pros Restaurant initially opens for business, and thereafter 30 days prior to the expiration of any such policy, you must deliver to us Certificates of Insurance evidencing the existence and continuation of proper coverage with limits not less than those required under this Agreement. You must not open your Taco Pros Restaurant until you have delivered all such Certificates. In addition, if requested by us, you must deliver to us a copy of the insurance policy or policies required under this Agreement. All insurance policies required under this Agreement, with the exception of workers' compensation, shall name us, our affiliates and the officers, directors, shareholders, partners, agents, representatives, independent contractors, servants and employees of each of them, as additional named insureds, and shall expressly provide that any interest of same therein shall not be affected by any breach by you of any policy provisions. Further, all insurance policies required under this Agreement shall

expressly provide that no less than 30 days' prior written notice shall be given to us in the event of a material alteration to or cancellation of the policies.

**12.7** Should you, for any reason, fail to procure or maintain the insurance required by this Agreement, as such requirements may be revised from time to time by us in writing, we have the right and authority (without, however, any obligation to do so) immediately to procure such insurance and charge our costs to you, which charges shall be payable by you immediately upon notice. These remedies shall be in addition to any other remedies we may have at law or in equity.

**12.8** Upon written request by us, you must obtain from your insurance carrier or carriers, and forward to us, a report of claims-made and reserves set against your insurance policies.

**12.9** We reserve the right to modify the types of insurance coverages and amounts of coverage that you are required to maintain for your Taco Pros Restaurant, and you agree to comply with any such changes, at your expense. We will not require any such modifications to your insurance coverages more frequently than once every 3 years during the term of this Agreement unless there is a change in the law, including, without limitation, statutory law, case law, governmental and administrative regulations, warranting a modification.

## **SECTION 13**

### **DEBTS AND TAXES**

#### **13.1 Taxes**

You must promptly pay when due all Taxes (defined below), levied or assessed, and all accounts and other indebtedness of every kind incurred by you in the conduct of your Taco Pros Restaurant under this Agreement. Without limiting the provisions of Section 15, you are solely liable for the payment of all Taxes and shall indemnify us for the full amount of all such Taxes and for any liability (including penalties, interest and expenses) arising from or concerning the payment of Taxes, whether such Taxes were correctly or legally asserted or not. Upon our request, you must submit to us within 2 days a copy of all tax filings sent to federal, state and local tax authorities for your Taco Pros Restaurant. The term "Taxes" means any present or future taxes, levies, imposts, duties or other charges of whatever nature, including any interest or penalties thereon, imposed by any government or political subdivision of such government on or relating to the operation of your Taco Pros Restaurant, the payment of monies, or the exercise of rights granted under this Agreement.

#### **13.2 Payments to Us**

Each payment to be made to us under this Agreement must be made without deduction for any Taxes.

#### **13.3 Tax Disputes**

In the event of any bona fide dispute as to your liability for Taxes assessed or other indebtedness, you may contest the validity or the amount of the tax or indebtedness in accordance with the procedures of the taxing authority or applicable law. However, in no event shall you permit a tax sale or seizure by levy of execution or similar writ or warrant or attachment by a creditor to occur against the premises of your Taco Pros Restaurant or any improvements thereon.

## **SECTION 14**

### **TRANSFER OF INTEREST**

#### 14.1 Transfer by Us

We have the right to assign this Agreement and all of our rights and privileges under this Agreement to any person or other entity provided that, with respect to any assignment resulting in the subsequent performance by the assignee of our functions, (a) the assignee shall, at the time of such assignment, be financially responsible and economically capable of performing our obligations and (b) the assignee shall expressly assume and agree to perform such obligations.

You expressly affirm and agree that we may sell our assets, our rights to the Marks or to the System outright to a third party; may go public; may engage in a private placement of some or all of our securities; may merge, acquire other corporations or be acquired by another corporation; may undertake a refinancing, recapitalization, leveraged buyout or other economic or financial restructuring; and, with regard to any or all of the above sales, assignments and dispositions, you expressly and specifically waive any claims, demands or damages arising from or related to the loss of said Marks (or any variation thereof) and/or the loss of association with or identification of “Taco Pros.” Nothing contained in this Agreement shall require us to remain in the Taco Pros Restaurant business or to offer the same products and services, whether or not bearing the Marks, in the event that we exercise our right to assign our rights in this Agreement.

#### 14.2 Transfer by You

(a) You understand and acknowledge that the rights and duties set forth in this Agreement are personal to you, and that we have granted rights under this Agreement in reliance on the business skill, financial capacity and personal character of you and your Owners. Accordingly, neither you nor any Owner nor any successor or assignee of you or any Owner, shall sell, assign (including but not limited to by operation of law, such as an assignment under bankruptcy or insolvency laws, in connection with a merger, divorce or otherwise), transfer, convey, give away, pledge, mortgage or otherwise encumber any direct or indirect interest in this Agreement, in your Taco Pros Restaurant, any of your Taco Pros Restaurant’s material assets (other than in connection with replacing, upgrading or otherwise dealing with such assets as required or permitted by this Agreement), in you or in any Owner that is an entity, in each case without our prior written consent and in accordance with the terms of this Agreement. Any purported assignment or transfer, by operation of law or otherwise, made in violation of this Agreement shall be null and void and shall constitute a default under this Agreement.

(b) If you desire to transfer all or part of your interest in your Taco Pros Restaurant, any of your Taco Pros Restaurant’s material assets (except as provided in Section 14.2(a) above) or this Agreement, or if you or an Owner desires to transfer or permit a transfer of any ownership interest in you or in an Owner that is an entity, then in each such case (any or all of which are referred to in this Section 14 as a “**Restricted Transfer**”), you and the proposed transferee shall apply to us for our approval and consent. We may, in our sole discretion, require any or all of the following as conditions of our approval:

(i) All of the accrued monetary obligations of you or any of your affiliates and all other outstanding obligations to us arising under this Agreement or any other agreement shall have been satisfied in a timely manner and you shall have satisfied all trade accounts and other debts, of whatever nature or kind, in a timely manner;

(ii) You and your affiliates shall not be in default of any provision of this Agreement, any amendment or successor to this Agreement, or any other agreement between you or any of your affiliates and us or any of our affiliates at the time of transaction;

(iii) You and your principals (if applicable) shall have executed a general release, in a form reasonably satisfactory to us, of all claims against us, our officers, directors, shareholders,



partners, agents, representatives, independent contractors, servants and employees of each of them, in their corporate and individual capacities, including, without limitation, claims arising under this Agreement and federal, state and local laws, rules and regulations;

(iv) The transferee shall demonstrate to our reasonable satisfaction that the transferee meets the criteria considered by us when reviewing a prospective franchisee's application for a franchise, including, without limitation, our educational, managerial and business standards; transferee's good moral character, business reputation and credit rating; transferee's aptitude and ability to operate a Taco Pros Restaurant (as may be evidenced by prior related business experience or otherwise); transferee's financial resources and capital for operation of the business; the geographic proximity and number of other Taco Pros Restaurants owned or operated by transferee and the absence of conflicting business interests and such other criteria as we may reasonably impose;

(v) At our election, the transferee shall either (a) enter into a written agreement, in a form reasonably satisfactory to us, assuming full, unconditional, joint and several liability for, and agreeing to perform from the date of the transfer, all obligations, covenants and agreements contained in this Agreement, and, if transferee is a corporation, partnership, or other entity, the transferee's shareholders, partners members, or other investors, as applicable, shall execute such agreement as transferee's principals and guarantee the performance of all such obligations, covenants and agreements; or (b) execute, for a term ending on the expiration of the Term of this Agreement and with such renewal term as may be provided by this Agreement, the standard form franchise agreement then being offered to new System franchisees and other ancillary agreements as we may require for your Taco Pros Restaurant, which agreements shall supersede this Agreement and its ancillary documents in all respects and the terms of which agreements may materially differ from the terms of this Agreement and be less advantageous to you than the terms of this Agreement, provided however that you will not be required to pay any initial franchise fee and the Protected Territory will remain the same;

(vi) The transferee, at its expense, shall renovate, modernize and otherwise upgrade your Taco Pros Restaurant to conform to the then-current standards and specifications of the System, and shall complete the upgrading and other requirements which conform to the System-wide standards within the time period reasonably specified by us;

(vii) You shall remain liable for all of the obligations to us in connection with your Taco Pros Restaurant incurred prior to the effective date of the transfer and shall execute any and all instruments reasonably requested by us to evidence such liability;

(viii) At the transferee's expense, the transferee, the transferee's general manager and/or any other applicable Taco Pros Restaurant personnel shall complete any training programs and pay any attendance and per diem fees then in effect for franchisees of Taco Pros Restaurants upon such terms and conditions as we may reasonably require;

(ix) You must pay to us a transfer fee equal to \$20,000 to reimburse us for administrative and other costs related to the transfer, including, without limitation, training expenses, legal and accounting fees; and

(x) If the transferee is a corporation, limited liability company, partnership or other legal entity, the transferee shall make and will be bound by any or all of the representations, warranties and covenants set forth at Section 6 as we request. The transferee shall provide to us evidence satisfactory to us that the terms of Section 6 have been satisfied and are true and correct on the date of transfer.

(c) You acknowledge and agree that each condition which must be met by the transferee is reasonable and necessary to assure such transferee's full performance of the obligations under this Agreement.

#### **14.3 Transfer to a Corporation or Limited Liability Company**

In the event the proposed transfer is to a corporation or limited liability company formed solely for the convenience of ownership with the same Owners retaining the same respective ownership interests, our consent may be conditioned upon any of the requirements set forth at Section 14.2(b), except that the requirements set forth at Sections 14.2(b)(iii), 14.2(b)(iv), 14.2(b)(vi), 14.2(b)(vii), 14.2(b)(ix) and 14.2(b)(x) shall not apply.

#### **14.4 Our Right to Purchase**

(a) In the case of a Restricted Transfer, or if you desire to transfer all or part of your interest in your Taco Pros Restaurant or this Agreement, or if you or an Owner desire to transfer any ownership interest in you, under any bona fide offer received from a third party to purchase such interest, then you and the proposed seller shall promptly notify us in writing all material terms and conditions of the offer, and shall provide such information and documentation relating to the offer as we may require, including the name, address and business experience of the buyer. We have the right and option, exercisable within 30 days after receipt of such written notification and copies of all documentation required by us describing such offer, to send written notice to the seller that we intend to purchase the proposed interest on the same terms and conditions offered by the third-party purchaser/transferee (the "**Offer Terms**"). In the event that we elect to purchase the interest, closing on such purchase must occur within the latest of (i) 60 days from the date of notice to the seller of the election to purchase by us, (ii) 60 days from the date we receive or obtain all necessary documentation, permits and approvals, or (iii) such other date as you and we agree upon in writing. Any material change in the terms of any offer prior to closing shall constitute a new offer subject to the same right of first refusal by us as in the case of an initial offer. Our failure or refusal to exercise the option afforded by this Section 14.4 shall not constitute a waiver of any other provision of this Agreement, including all of the requirements of this Section 14, with respect to a proposed transfer.

(b) We may assign our rights under this Section 14.4 to any other person or entity, subject to Section 14.1 above.

(c) In the event an offer from a third party provides for payment of consideration other than cash or involves certain intangible benefits, we may elect to purchase the interest proposed to be sold for the reasonable cash equivalent. If the parties cannot agree within a reasonable time on the reasonable cash equivalent of the non-cash part of the Offer Terms, then such amount shall be determined by 2 appraisers, with each party selecting one appraiser, and the average of their determinations shall be binding. In the event of such appraisal, each party shall bear its own legal and other costs, and each shall pay one half of the appraisal fees. In the event that we exercise our right of first refusal, we have the right to set off against any payment of the purchase price (i) all fees for any such independent appraiser due from you under this Agreement and (ii) all amounts due from you to us.

#### **14.5 Death or Disability**

(a) Upon the death or permanent disability of any Owner or other person with an interest in you, this Agreement or your Taco Pros Restaurant, the executor, administrator, personal representative, or trustee of such person or entity shall transfer his, her or its interest to a third party approved by us within 6 months of such death or permanent disability. Such transfers, including, without limitation, transfers by devise or inheritance, shall be subject to the same conditions as any transfer during life. However, in the case of transfer by devise or inheritance, if the heirs or beneficiaries of any such person

are unable to meet the conditions in Section, the executor, administrator, or personal representative of the decedent must dispose of the decedent's interest in your Taco Pros Restaurant and this Agreement, which disposition shall be subject to all the terms and conditions for transfers contained in this Agreement, no later than 6 months from the date of death or permanent disability.

**“Permanent disability”** means any physical, emotional or mental injury, illness or incapacity which would prevent a person from performing the obligations set forth in this Agreement or in the guaranty made part of this Agreement for at least 90 consecutive days and from which condition recovery within 90 days from the date of determination of disability is unlikely. Permanent disability shall be determined by a licensed practicing physician selected by us, upon examination of the person; or if the person refuses to submit to an examination, then such person automatically shall be deemed permanently disabled as of the date of such refusal for the purpose of this Section 14.5. The costs of any examination required by this Section 14.5 will be paid by us.

#### **14.6 No Waiver of Claims**

Our consent to a transfer of any interest shall not constitute a waiver of any claims which we may have against the transferring party, nor shall it be deemed a waiver of our right to demand material and full compliance with any of the terms of this Agreement by the transferee.

#### **14.7 Transfer Among Owners**

If any person holding an interest in you, this Agreement or your Taco Pros Restaurant (other than you or an Owner, which parties shall be subject to the provisions set forth above) transfers such interest, then you must promptly notify us of such proposed transfer in writing and shall provide such information relative thereto as we may reasonably request prior to such transfer. Such must be in compliance with Section 10.3(a)(ii) of this Agreement. Such transferee will be designated as an Owner under this Agreement and as such will have to execute a Confidentiality and Non-Competition Agreement in the form then required by us, which form shall be in substantially the same form attached hereto as Exhibit D (see Sections 10.2(b) and 10.3(f)). We also reserve the right to designate the transferee as one of your Owners. Notwithstanding the provisions contained in Section 14.2 to the contrary, your Owners may freely transfer their ownership interests in you among themselves and to their family members (or to trusts for the benefit of such family members), and our right of first refusal shall be inapplicable with respect to such transfers, provided you provide us with 30 days' prior written notice of such transfer, which notice shall include the names and percentages transferred.

#### **14.8 Requirement to Comply**

You are required to cause any transferor and transferee described in this Section 14 to perform all of the obligations imposed on such persons under this Section 14. Any failure by you or any transferor and transferee described in this Section 14 to comply with the provisions of this Section prior to the transfer of any interest in you, your Taco Pros Restaurant or this Agreement shall constitute a default under this Agreement.

#### **14.9 Transfer by Franchisee Bankruptcy - Right of First Refusal**

If, for any reason, this Agreement is not terminated under Section 17.1 and this Agreement is assumed, or assignment of the same to any person or entity who has made a bona fide offer to accept an assignment of this Agreement is contemplated, under the United States Bankruptcy Code, then notice of such proposed assignment or assumption, setting forth (a) the name and address of the proposed assignee, (b) all of the terms and conditions of the proposed assignment and assumption; and (c) the adequate assurance of the proposed assignee's future performance of this Agreement (which shall incorporate the relevant prerequisites applicable to any other proposed transferees as set forth in Section 14.2 of this

Agreement) referred to in Section 3.65(b)(3) of the U.S. Bankruptcy Code, shall be given to us within 20 days after receipt of such proposed assignee's offer to accept assignment of this Agreement, and, in any event, within 10 days prior to the date application is made to a court of competent jurisdiction for authority and approval to enter into such assignment and assumption, and we shall thereupon have the prior right and option, to be exercised by notice given at any time prior to the effective date of such proposed assignment and assumption, to accept an assignment of this Agreement to us upon the same terms and conditions and for the same consideration, if any, as in the bona fide offer made by the proposed assignee, less any brokerage commissions which may be payable by you out of the consideration to be paid by such assignee for the assignment of this Agreement.

## **SECTION 15**

### **INDEMNIFICATION**

#### **15.1 Indemnification by You**

You and each of your Owners shall, at all times, indemnify and hold harmless to the fullest extent permitted by law us, our successors and assigns, our respective partners and affiliates and the officers, directors, shareholders, partners, agents, representatives, independent contractors, servants and employees of each of them (“**Indemnitees**”) from all “losses and expenses” (defined in Section 15.4 below) incurred in connection with any action, suit, proceeding, claim, demand, investigation or inquiry (formal or informal), or any settlement thereof (whether or not a formal proceeding or action has been instituted) which arises out of or is based upon any of the following:

(a) The infringement, alleged infringement, or any other violation or alleged violation by you or any of your Owners of any of our Marks or any patent, trademark, copyright or other proprietary right owned or controlled by third parties;

(b) The violation, breach or asserted violation or breach by you or any of your Owners of any federal, state or local law, regulation, ruling, standard or directive or any industry standard, including without limitation any allegations by your employees or governmental agencies for harassment or discrimination, wage and hour violations or other employment or labor law claims;

(c) Libel, slander or any other form of defamation of us, the System or any area developer or franchisee operating under the System, by you, any Owner or any of your employees, agents or representatives;

(d) The violation or breach by you or by any of your Owners of any warranty, representation, agreement or obligation in this Agreement or in any other agreement between you or any of your affiliates and us and our Indemnitees;

(e) Acts, errors, or omissions of you, your affiliates, your Owners and any officers, directors, shareholders, partners, agents, representatives, independent contractors and employees of you and your affiliates in connection with the establishment and operation of your Taco Pros Restaurant; and

(f) The operation of your Taco Pros Restaurant.

#### **15.2 Notification of Action or Claim**

You and each of your Owners agree to give us prompt notice of any action, suit, proceeding, claim, demand, inquiry, or investigation set forth in Section 15.1. At the expense and risk of you and each of your Owners, we may elect to assume (but under no circumstance are we obligated to undertake) or appoint associate counsel of our own choosing with respect to the defense and/or settlement of any such action,

suit, proceeding, claim, demand, inquiry or investigation. Such an undertaking by us shall, in no manner or form, diminish the obligation of you and each of your Owners to indemnify the Indemnitees and to hold them harmless.

### **15.3 We May Settle**

In order to protect persons or property, or our reputation or goodwill, or the reputation or goodwill of others, we may, at any time and without notice, as we in our reasonable judgment deem appropriate, consent or agree to settlements or take such other remedial or corrective action as we deem expedient with respect to the action, suit, proceeding, claim, demand, inquiry or investigation if, in our reasonable judgment, there are reasonable grounds to believe that any of the acts or circumstances enumerated in Section 15.1 above have occurred or may result directly or indirectly in damage, injury, or harm to the System, any person or any property.

### **15.4 Losses and Expenses**

All losses and expenses incurred under this Section 15 shall be chargeable to and paid by you or any of your Owners under your obligations of indemnity under this Section, regardless of any actions, activity or defense undertaken by us or the subsequent success or failure of such actions, activity, or defense. As used in this Section 15, the phrase “losses and expenses” includes, without limitation, all losses, compensatory, exemplary or punitive damages, fines, charges, costs, expenses, lost profits, reasonable attorneys’ fees, court costs, settlement amounts, judgments, compensation for damages to our reputation and goodwill, costs of or resulting from delays, financing, costs of advertising material and media time/space, and costs of changing, substituting or replacing the same, and any and all expenses of recall, refunds, compensation, public notices and other such amounts incurred in connection with the matters described.

### **15.5 Indemnitees Do Not Assume Liability**

The Indemnitees do not assume any liability whatsoever for acts, errors, or omissions of any third party with whom you, any of your Owners, your affiliates or any of the officers, directors, shareholders, partners, agents, representatives, independent contractors and employees of you or your affiliates may contract, regardless of the purpose. You and each of your Owners shall hold harmless and indemnify the Indemnitees for all losses and expenses which may arise out of any acts, errors or omissions of you, your Owners, your affiliates, the officers, directors, shareholders, partners, agents, representatives, independent contractors and employees of you and your affiliates and any such other third parties without limitation and without regard to the cause or causes thereof.

### **15.6 Recovery from Third Parties**

Under no circumstances shall the Indemnitees be required or obligated to seek recovery from third parties or otherwise mitigate their losses in order to maintain a claim against you or any of your Owners. You and each of your Owners agree that the failure to pursue such recovery or mitigate loss will in no way reduce the amounts recoverable from you or any of your Owners by the Indemnitees.

### **15.7 Survival of Terms**

You and your Owners expressly agree that the terms of this Section 15 shall survive the termination, expiration or transfer of this Agreement or any interest in this Agreement.

## **SECTION 16** **RELATIONSHIP OF THE PARTIES**

### **16.1 No Relationship**

You and we acknowledge and agree that this Agreement does not create a fiduciary relationship between us, that you will be an independent contractor, and that nothing in this Agreement is intended to constitute either party an agent, legal representative, subsidiary, joint venturer, partner, employee, joint employer or servant of the other for any purpose.

### **16.2 Independent Contractor**

During the Term, you must hold yourself out to the public as an independent contractor conducting your Taco Pros Restaurant operations under the rights granted by us. You must exhibit a notice in a conspicuous place at your Taco Pros Restaurant premises that your Taco Pros Restaurant is independently owned and operated and will reproduce such notice on all of your letterhead, business cards, forms, advertisements and as further described in the Manual, and to take such further action as we shall reasonably require. We reserve the right to specify in writing the content and form of such notice.

### **16.3 You are Not Authorized**

You understand and agree that nothing in this Agreement authorizes you or any of your Owners to make any contract, agreement, warranty or representation on our behalf, or to incur any debt or other obligation in our name, and that we shall in no event assume liability for, or be deemed liable under this Agreement as a result of, any such action, or for any act or omission of you or any of your Owners or any claim or judgment arising therefrom.

## **SECTION 17** **TERMINATION**

You acknowledge and agree that each of your obligations described in this Agreement is material and essential, that non-performance of any obligation will adversely and substantially affect us and the System, that any default described below constitutes “good cause” (as such term may be defined in any state statute or law) for us to exercise our remedies including termination of this Agreement and that our exercise of the rights and remedies set forth in this Agreement is appropriate and reasonable.

### **17.1 Automatic Termination – No Right to Cure**

You will be in default under this Agreement, and we may at our option terminate this Agreement and all rights granted under this Agreement, without affording any opportunity to cure the default, effective immediately upon notice to you, upon the occurrence of any of the following events:

(a) If (i) you, or any Owner becomes insolvent or makes a general assignment for the benefit of creditors, files a petition in bankruptcy (or such a petition is filed against you or an Owner), or is adjudicated a bankrupt or insolvent; (ii) a bill in equity or other proceeding for the appointment of a receiver or other custodian for you or an Owner or its business or assets is filed and consented to; (iii) a receiver or other custodian (permanent or temporary) of yours or an Owner’s assets or property, or any part thereof, is appointed by any court of competent jurisdiction; (iv) proceedings for a composition with creditors under any state or federal law should be instituted by or against an Owner; (v) a final judgment remains unsatisfied or of record for 30 days or longer; (vi) you, if you are a business entity, are dissolved; (vii) execution is levied against your Taco Pros Restaurant or its assets; (viii) suit to foreclose any lien or mortgage against your Taco Pros Restaurant premises or equipment is instituted and not dismissed within 30 days; or (ix) the real or personal property of your Taco Pros Restaurant shall be sold after levy upon such property by any sheriff, marshal, or constable.

(b) If you operate your Taco Pros Restaurant or sell any products or services authorized by us for sale at your Taco Pros Restaurant at a location which has not been approved by us;

(c) If you fail to construct or remodel your Taco Pros Restaurant in accordance with the plans and specifications provided to you under Section 5.3 as such plans may be adapted with our approval in accordance with Section 2.5;

(d) If you at any time cease to operate or otherwise abandon your Taco Pros Restaurant, or lose the right to possession of your Taco Pros Restaurant premises, or otherwise forfeit the right to do or transact business in the jurisdiction where your Taco Pros Restaurant is located; provided, however, that this provision shall not apply in cases of Force Majeure (acts of God, strikes, lockouts or other industrial disturbances, war, riot, epidemic, acts of terrorism, fire or other catastrophe or other forces beyond your control), if through no fault of yours your Taco Pros Restaurant premises are damaged or destroyed by an event as described above, provided that you apply within 30 days after such event for our approval to relocate or reconstruct your Taco Pros Restaurant premises (which approval shall not be unreasonably withheld) and you diligently pursue such reconstruction or relocation;

(e) If any Owner is convicted of, or has entered a plea of *nolo contendere* to, a felony, a crime involving moral turpitude, or other act or crime that we believe in our sole discretion is reasonably likely to have an adverse effect on the System, the Marks, the goodwill associated therewith, or our interests therein, or engages in any other activity that in our reasonable judgment is offensive to community standards;

(f) If a threat or danger to public health or safety results from the construction, maintenance or operation of your Taco Pros Restaurant;

(g) If any Owner attempts to transfer any rights or obligations under this Agreement or any interest in your Taco Pros Restaurant to any third party without our prior written consent or without offering us a right of first refusal with respect to such transfer, contrary to the terms of Section 14;

(h) If any Owner fails to comply with the in-term covenants in Section 10.3;

(i) If, contrary to the terms of Section 10.2, any Owner discloses or divulges any confidential information;

(j) If a transfer upon death or permanent disability is not transferred in accordance with Section 14 and within the time periods therein;

(k) If you knowingly maintain false books or records or submit any false reports to us;

(l) If you misuse or make any unauthorized use of the Marks or otherwise materially impair the goodwill associated therewith or our rights therein;

(m) If your General Manager candidate is not able to complete our initial training program to our satisfaction, after having given you the opportunity to designate one replacement General Manager candidate;

(n) If you fail to comply with all applicable laws and ordinances relating to your Taco Pros Restaurant, including Anti-Terrorism Laws, or if any Owner's assets, property or interests are blocked under any law, ordinance, or regulation relating to terrorist activities, or you or any of your owners otherwise violate any such law, ordinance, or regulation;

(o) If you breach any of the covenants set forth in Section 6 or have falsely made any of the representations or warranties set forth in Section 6;

(p) If any license in connection with your Taco Pros Restaurant is suspended or terminated; or

(q) If you commit 3 events of default under this Agreement, within any 12-month period, whether or not such defaults are of the same or different nature and whether or not such defaults have been cured by you after notice by us.

## **17.2 Notice of Termination – Opportunity to Cure**

We may terminate this Agreement and all of your rights under this Agreement if we provide written notice to you stating any of the following defaults and the applicable time period set forth below expires prior to the cure of such default to our reasonable satisfaction. If we do not receive acceptable proof of cure within the specified time, this Agreement and all of your rights under this Agreement shall terminate without further notice to you effective immediately upon the expiration of the cure period:

(a) If you fail to comply with any of the requirements imposed by this Agreement, as it may from time to time be amended or reasonably supplemented by us, or fail to carry out the terms of this Agreement in good faith and do not cure such default within 14 days following notice from us;

(b) If you fail to maintain or observe any of the standards, specifications or procedures prescribed by us in this Agreement, the Manual or otherwise in writing and do not cure such default within 14 days following notice from us;

(c) If you fail, refuse, or neglect to obtain our prior written approval or consent as required by this Agreement and do not cure such default within 14 days following notice from us;

(d) If you fail to acquire an Approved Location for your Taco Pros Restaurant within the time and in the manner specified in Section 2 and do not cure such default within 14 days following notice from us;

(e) If you fail to open your Taco Pros Restaurant for business within the period specified in Section 2.6 and do not cure such default within 14 days following notice from us;

(f) If you or any of your affiliates fail, refuse, or neglect promptly to pay any monies owing to us, or any of our affiliates or vendors, when due under this Agreement or any other agreement, or to submit the financial or other information required by us under this Agreement and do not cure such default within 5 days following notice from us (or such other cure period specified in such other agreement, unless no cure period is stated or such period is less than 5 days, in which case the 5-day cure period shall apply);

(g) If you fail to obtain execution of the covenants and related agreements required under Section 10.2(b) or 10.3(f) within 30 days following notice from us;



(h) If you fail to propose a qualified replacement or successor General Manager within the time required under Section 6.3 within 10 days following notice from us;

(i) If you fail to procure and maintain the insurance policies required by Section 12 and you fail to cure such default within 10 days following notice from us;

(j) If, in accordance with Section 6.2(h), you fail to maintain sufficient working capital to fulfill your obligations under this Agreement and you fail to cure such default within 30 days following notice from us; or

(k) If your Taco Pros Restaurant repeatedly receives poor or negative reviews in the media, whether online, social media, the press or otherwise.

### **17.3 Cross-Defaults, Non-Exclusive Remedies, etc.**

Any default under this Agreement or of any obligation owed to us or our affiliates, whether under this Agreement or under another agreement with us, such as an Area Development Agreement, or our affiliates, such as a sublease, loan agreement or security interest, or any default under any agreement related to your Taco Pros Restaurant, such as a lease, a vendor agreement or subcontract, constitutes a default under this Agreement. In each of the foregoing cases, we and our affiliates will have all remedies allowed under this Agreement and at law, including termination of your rights (and/or those of any person/company affiliated with you) and our (and/or our affiliates') obligations. No right or remedy which we may have (including termination) is exclusive of any other right or remedy provided under law or equity, and we may pursue any rights and remedies available.

### **17.4 Our Right to Discontinue Services to You**

If you are in breach of any obligation under this Agreement, and we deliver to you a notice of termination under this Section 17, we have the right to suspend our performance of any of our obligations under this Agreement including, without limitation, the sale or supply of any services or products for which we are an approved supplier to you and/or suspension of your webpage on our website, until such time as you correct the breach.

### **17.5 Amendment under Applicable Law**

Notwithstanding anything to the contrary contained in this Section 17, if any valid, applicable law or regulation of a competent governmental authority having jurisdiction over your Taco Pros Restaurant, you and we shall limit our rights of termination under this Agreement or shall require longer notice periods than those set forth above, this Agreement is deemed amended to satisfy the minimum notice periods or restrictions upon such termination required by such laws and regulations; provided, however, that such constructive amendment shall not be deemed a concession by us that the grounds for termination set forth in this Agreement do not constitute "good cause" for termination within the meaning ascribed to that term by any applicable law or regulation. We shall not be precluded from contesting the validity, enforceability or application of such laws or regulations in any action, hearing or proceeding relating to this Agreement or the termination of this Agreement.

### **17.6 Step-In Rights**

At any time after the occurrence of a default under Section 17.1 or the expiration of a cure period for a default under Section 17.2, or in the event we determine that significant operational problems exist with respect to your Taco Pros Restaurant, in order to prevent harm to your Taco Pros Restaurant or damage to the System, you authorize us to operate your Taco Pros Restaurant for as long as we deem necessary and practical, and without waiver of any other rights or remedies which we may have under this Agreement

(“**Step-In Rights**”). We have no obligation or requirement to exercise Step-In Rights, and any such election is at our option, in our sole discretion. In the event of our exercise of the Step-In Rights, you agree to hold us and our representatives harmless for all actions occurring during the course of such temporary operation. You further agree to pay us for any related business expenses, compensation for our representatives, a management fee equal to 5% of Gross Sales, and all reasonable attorneys’ fees and costs incurred as a consequence of our exercise of the Step-In Rights. We shall keep in a separate account all monies generated by the operation of your Taco Pros Restaurant, less the operating expenses, including all required fees under this Agreement, the management fee and reasonable expenses for our representatives. Nothing contained in this Section 17 shall prevent us from exercising any other right which we may have under this Agreement, including, without limitation, termination of this Agreement.

## **SECTION 18**

### **POST-TERMINATION**

Upon termination or expiration of this Agreement, all rights granted under this Agreement to you will immediately terminate, and:

#### **18.1 Cease Operations**

You must immediately cease to operate your Taco Pros Restaurant under this Agreement, and shall not thereafter, directly or indirectly, represent to the public or hold yourself out as a present franchisee of ours.

#### **18.2 Stop Using the System**

You must immediately and permanently cease to use, in any manner whatsoever, any confidential methods, recipes, menus, computer software, procedures, and techniques associated with the System, the Marks and all other marks and distinctive forms, slogans, signs, symbols, and devices associated with the System. In particular, you must cease to use, without limitation, all signs, advertising materials, displays, stationery, forms and any other articles which display the Marks, and shall immediately change all paint colors and remove all of our proprietary or non-proprietary design items.

#### **18.3 Cancellation of Assumed Names**

You must take such action as may be necessary to cancel any assumed name or equivalent registration which contains the “Taco Pros” mark or any other service mark or trademark of ours and furnish us with evidence satisfactory of compliance with this obligation within 5 days after termination or expiration of this Agreement.

#### **18.4 No Use of Similar Marks**

You agree, in the event that you have the right under this Agreement to continue to operate or subsequently begin to operate any other business and you choose to do so, not to use any reproduction, counterfeit, copy or colorable imitation of the Marks, either in connection with such other business or the promotion thereof, which is likely to cause confusion, mistake or deception, or which is likely to dilute our rights in and to the Marks, and further agree not to utilize any designation of origin or description or representation which falsely suggests or represents an association or connection with us constituting unfair competition.

#### **18.5 Payment of Sums Owed**

You must promptly pay all sums owing to us. Such sums shall include all damages, costs and expenses, including reasonable attorneys’ fees, incurred by us as a result of any default by you, which obligation shall give rise to and remain, until paid in full, a lien in our favor against any and all of the

personal property, furnishings, equipment, fixtures, and inventory owned by you and on your Taco Pros Restaurant premises operated under this Agreement at the time of default.

#### **18.6 Payment of Damages, Costs and Expenses**

You must pay to us all damages, costs and expenses, including reasonable attorneys' fees, incurred by us in connection with obtaining any remedy available to us for any violation of this Agreement and, subsequent to the termination or expiration of this Agreement, in obtaining injunctive or other relief for the enforcement of any provisions of this Section 18.

#### **18.7 Delivery of Manual and Materials**

You must immediately deliver to us all copies of the Manual, software licensed by us, records, files, instructions, correspondence, all materials related to operating your Taco Pros Restaurant, including, without limitation, agreements, invoices, and any and all other materials relating to the operation of your Taco Pros Restaurant in your possession or control, and all copies thereof (all of which are acknowledged to our property), and shall retain no copy or record of any of the foregoing, except your copy of this Agreement and of any correspondence between you and us and any other documents which you reasonably need for compliance with any provision of law.

#### **18.8 Confidential Information**

Your Owners must comply with the restrictions on confidential information and the non-competition covenants contained in Section 10 of this Agreement. You will also ensure that any other person required to have executed similar covenants under Section 10 shall also comply with such covenants.

#### **18.9 Advertising and Promotional Materials**

You must immediately furnish us with an itemized list of all advertising and sales promotion materials bearing the Marks or any of our distinctive markings, designs, labels, or other marks thereon, whether located on your Taco Pros Restaurant premises or under your control at any other location. We have the right to inspect these materials and the option to purchase any or all of the materials at your cost, or to require you to destroy and properly dispose of such materials. Materials not purchased by us shall not be utilized by you or any other party for any purpose.

#### **18.10 Signage**

Upon execution of this Agreement, in partial consideration of the rights granted under this Agreement, you acknowledge and agree that all right, title and interest in the signs used at your Taco Pros Restaurant are hereby assigned to us, and that upon termination or expiration of this Agreement, neither you nor any lien holder shall have any further interest therein.

#### **18.11 Assignment**

At our option, you must assign to us all of your right, title and interest in and to any lease or sublease you may hold for the premises of your Taco Pros Restaurant, or any equipment related thereto, and any business licenses. In connection with such assignments, you hereby appoint us as your attorney-in-fact to execute any documentation necessary to effectuate such transfers. In the event we do not elect to exercise our option to acquire the lease or sublease for your Taco Pros Restaurant premises, you must make such modifications or alterations to your Taco Pros Restaurant premises as are necessary to distinguish the appearance of your Taco Pros Restaurant from that of other Taco Pros Restaurants operating under the System and shall make such specific additional changes as we may reasonably request within 30 days. If you fail or refuse to comply with the requirements of this Section 18.11, we have the right to enter upon the premises of your Taco Pros Restaurant, without being guilty of trespass or any other crime or tort, to make

or cause to be made such changes as may be required, at your expense, which expense you agree to pay upon demand.

#### **18.12 Our Right to Purchase**

Except as provided in Sections 18.9, 18.10 and 18.13, we have the option, to be exercised within 60 days after termination or expiration of this Agreement, to purchase from you at fair market value any or all of the furnishings, fixtures, equipment (including any point of sale system and computer hardware and software), signs, motor vehicles, supplies, and inventory related to the operation of your Taco Pros Restaurant. Fair market value shall not attribute any value to goodwill or going concern value. For any assets we purchase, we will not assume any liabilities whatsoever, which will remain with you. If you and we cannot agree on the fair market value within 30 days of our exercise of this option, fair market value shall be determined by 2 appraisers, with each party selecting one appraiser, and the average of their determinations shall be binding. Each party shall bear its own legal and other costs in obtaining its appraisal. If we elect to exercise any option to purchase, we have the right to set off all amounts due from you to us.

If we exercise our option described above, you must deliver to us in a form satisfactory to us, such warranties, deeds, releases of lien, bills of sale, assignments and such other documents and instruments which we deem necessary in order to perfect our title and possession in and to the properties being purchased or assigned and to meet the requirements of all tax and government authorities. If, at the time of closing, you have not obtained all of these certificates and other documents, we may, in our sole discretion, place the purchase price in escrow pending issuance of any required certificates or documents.

The time for closing of the purchase and sale of the properties described above shall be a date not later than 30 days after the purchase price is determined by the parties or the determination of the appraisers, or such date we receive and obtain all necessary permits and approvals, whichever is later, unless we agree otherwise. Closing shall take place at our corporate offices.

#### **18.13 Taco Pros Restaurant Assets**

Notwithstanding anything to the contrary contained in Sections 18.11 and 18.12, if you operate your Taco Pros Restaurant from a premises that is subleased to you by us or one of our affiliates, upon termination or expiration of this Agreement, we have the right to take immediate possession of the assets of your Taco Pros Restaurant, including any or all of the furnishings, fixtures, equipment (including any point of sale system or computer hardware and software), signs, supplies, and inventory related to the operation of your Taco Pros Restaurant. We shall have a lien against all such assets in the amount of any amounts due to us under this Agreement or any other agreement. We have the right to have such assets appraised at the lower of cost or fair market value of the used assets, and to acquire all right, title and interest to such assets, without conducting any public sale, by paying to you (or to any lender of yours who has a lienholder interest in the assets) the difference between the appraised value and the amounts owed to us by you at the time of termination. If the lien on the assets from your lender has priority over any lien of ours, and the amount of the lien is in excess of the appraised value of such assets, we have the right to deal directly with your lienholder, and to pay any amounts due to you directly to the lienholder. You agree to provide all further assurances, and to execute all documents required by us or by law to lawfully effect such transfer, and to perfect our security interest. We have the right to take such action without the execution of any further documents by you if you fail or refuse to comply with these further assurances.

#### **18.14 Assignment of Options by Us**

We shall be entitled to assign any and all of our options in this Section 18 to any other party, without your consent.

#### **18.15 Telephone Numbers, Yellow Pages Listings, etc.**

You, at our option, shall assign to us all rights to the telephone numbers of your Taco Pros Restaurant and any related directory listings or other business listings and execute all forms and documents required by us and any telephone company at any time to transfer such service and numbers to us. Further, you must assign to us all internet listings, domain names, internet Accounts, advertising on the internet or World Wide Web, websites, listings with search engines, social media accounts, e-mail addresses or any other similar listing or usage related to your Taco Pros Restaurant. Notwithstanding any forms and documents which may have been executed under Section 7.9, you hereby appoint us as your true and lawful agent and attorney-in-fact with full power and authority, for the sole purpose of taking such action as is necessary to complete such assignment. This power of attorney shall survive the expiration or termination of this Agreement. Afterward you must use different telephone numbers, email addresses or other listings or usages at or in connection with any subsequent business conducted by you.

### **18.16 Liquidated Damages for Royalty Fees**

(a) If we terminate this Agreement for cause, you must pay us liquidated damages attributable solely to our lost future Royalty Fees equal to the average value of the Royalty Fees you paid or owed (per month) to us during the 12 months before the termination multiplied by (i) 24, being the number of months in 2 full years, or (ii) the number of months remaining during the Term, whichever is higher.

(b) You and we acknowledge and agree that it would be impossible or impracticable to determine precisely the damages that are attributable solely to lost Royalty Fees that we would incur from this Agreement's termination and the loss of cash flow from Royalty Fees due to, among other things, the complications of determining what costs, if any, we might have saved and how much the Royalty Fees would have grown over what would have been this Agreement's remaining term. We therefore consider this liquidated damages provision to be a reasonable, good faith pre-estimate of those damages.

(c) This liquidated damages provision only covers our damages from the loss of cash flow from the Royalty Fees. It does not cover any other damages, including damages to our reputation with the public and landlords and damages arising from a violation of any provision of this Agreement other than the Royalty Fee provision. Your Owners agree that the liquidated damages provision does not give us an adequate remedy at law for any default under, or for the enforcement of, any provision of this Agreement other than the Royalty Fee provision.

## **SECTION 19** **DISPUTE RESOLUTION**

### **19.1 Mediation**

Except as otherwise provided in this Section 19, prior to initiating any proceeding to resolve any dispute based upon, arising out of, or in any way connected with this Agreement, a party must submit the dispute for mediation. The mediation will be held before one mediator selected by the parties, and if the parties cannot agree upon the mediator, then a mediator selected by the American Arbitration Association ("AAA"). All parties must attend in-person and participate in the mediation. The mediation shall be governed by the commercial mediation rules of the AAA, shall be held in Chicago, Illinois, and shall not last more than one day. The obligation to mediate shall not be binding upon either party with respect to claims relating to the Marks, the non-payment or underpayment of any fees payable by you under this Agreement, the noncompetition covenants, or requests by either party for temporary restraining orders, preliminary injunctions or other procedures in a court of competent jurisdiction to obtain interim relief when deemed necessary by such court to preserve the status quo or prevent irreparable injury pending resolution of the actual dispute. If we and you do not resolve our dispute by mediation, then any party may thereafter file for litigation or arbitration, as applicable, in accordance with the terms of this Agreement.

## 19.2 Arbitration

(a) Except for claims relating to the Marks, the non-payment or underpayment of any fees payable by you under this Agreement, the noncompetition covenants, or requests by either party for temporary restraining orders, preliminary injunctions or other procedures in a court of competent jurisdiction to obtain interim relief when deemed necessary by such court to preserve the status quo or prevent irreparable injury pending resolution of the actual dispute, all controversies, disputes or claims between you and your affiliates, and their respective owners, officers, directors, members, managers, agents, employees and attorneys, and us, and any of our affiliates, and their respective owners, officers, directors, agents, employees and attorneys, arising out of or relating in any way to this Agreement or any other agreement between the parties; the parties' rights and obligations under this Agreement; our relationship or the obligations by and between the parties; or the validity of this Agreement or any other agreement between you and us or any provision of such agreements, must be submitted to binding arbitration administered by the AAA in accordance with the AAA's then-current Commercial Arbitration Rules. The arbitration hearing shall take place in Chicago, Illinois, before a single arbitrator. Any party who fails or refuses to submit any dispute to binding arbitration following a lawful demand by the opposing party shall bear all costs and expenses incurred by the opposing party in compelling arbitration.

(b) Any arbitration must be on an individual basis and the parties, and the arbitrator will have no authority or power to proceed with any claim as a class action, associational claim, or otherwise to join or consolidate any claim with any other claim or any other proceeding involving third parties. The arbitrator may award or include in the award any relief which he or she deems proper in the circumstances including but not limited to money damages (with interest on unpaid amounts from the date due), specific performance and attorneys' fees and costs, in accordance with this Agreement. **The foregoing to the contrary notwithstanding, the arbitrator shall not be empowered to award consequential, exemplary or punitive damages. The parties (and their owners and guarantors, if applicable) waive to the fullest extent permitted by law, any right to or claim for any punitive, exemplary or consequential damages against the other and agree that in a dispute between them each shall be limited to the recovery of any actual damages sustained by it.** The award and decision of the arbitrator shall be conclusive and binding upon all parties to this Agreement and judgment upon the award may be entered in any court of competent jurisdiction. You and we agree that, in connection with any arbitration proceeding, each shall file any compulsory counterclaim (defined by Rule 13 of the Federal Rules of Civil Procedure) within 30 days after the date of the filing of the claim to which it relates.

## 19.3 Choice of Law; Venue

This Agreement takes effect upon its acceptance and execution by us in Illinois, and any claim or controversy arising out of or related to this Agreement, or the making, performance, breach, interpretation, or termination thereof, except to the extent governed by the United States Trademark Act of 1946, shall be interpreted and construed under the laws of Illinois. In the event of any conflict of law, the laws of Illinois shall prevail, without regard to the application of any state's conflict-of-law rules. If, however, any provision of this Agreement would not be enforceable under the laws of Illinois, and if the Protected Territory is located outside of Illinois and such provision would be enforceable under the laws of the state in which the Protected Territory is located, then such provision shall be interpreted and construed under the laws of that state. Nothing in this Section 19 is intended by the parties to subject this Agreement to any franchise or similar law, rule, or regulation to which it would not otherwise be subject. In the event either party asserts a claim against the other that is not subject to arbitration under Section 19.2, you and we agree that the exclusive venue for such dispute shall lie with the state and federal courts located in Chicago, Illinois. You and we waive any objection we may have to the personal jurisdiction of or venue in the state and federal courts of Chicago, Illinois.

#### **19.4 Non-Exclusivity of Remedies**

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

#### **19.5 Limitations of Adjudicative Proceedings**

**You and we irrevocably waive trial by jury in any action, proceeding, or counterclaim, whether at law or in equity, brought by either of them against the other, whether or not there are other parties in such action or proceeding. Except for payments owed by one party to the other, and unless prohibited by applicable law, any and all claims and actions arising out of or relating in any way to this agreement, the relationship between and among them, or your operation of your taco pros restaurant, brought by any party to this agreement against the other, must be commenced within two (2) years from the occurrence of the facts giving rise to such claim or action, or such claim or action shall be barred. All parties waive to the fullest extent permitted by law any right to or claim of any punitive, exemplary, or consequential damages against the other and agree that in the event of a dispute between them each shall be limited to the recovery of any actual damages sustained by it.**

#### **19.6 Right to Injunctive Relief**

Nothing in this Agreement shall bar our right to seek injunctive relief without the posting of any bond or security to obtain the entry of temporary and permanent injunctions and orders of specific performance enforcing the provisions of this Agreement relating to your (i) use of the Marks; (ii) assignment or proposed assignment of your Taco Pros Restaurant, this Agreement or any ownership interest in you; (iii) any other breach of the terms and conditions of this Agreement. We also shall be permitted to seek injunctive relief to prohibit any act or omission by you or your employees that constitutes a violation of any applicable law, is dishonest or misleading to your customers or the public, or which may impair the goodwill associated with the Marks; and you agree to pay all costs and reasonable attorneys' fees incurred by us in obtaining such relief.

### **SECTION 20** **MISCELLANEOUS**

#### **20.1 Notices**

(a) Any and all notices required or permitted under this Agreement (“**Notices**”) shall be in writing and shall be personally delivered or sent by certified mail, return receipt requested, first class postage prepaid, or sent by FedEx or another nationally recognized overnight carrier to the respective parties at the following addresses unless and until a different address has been designated by written notice to the other party:

Notices to us:

Taco Pros International LLC  
2200 Stonington Ave, Suite 260  
Hoffman Estates, Illinois 60169-2067  
Attn: Mr. Bhagyesh Patel

With a copy to:

Marcus & Boxerman  
20 N. Clark St., Suite 3300  
Chicago, Illinois 60602

Notices to you:

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(b) Any notice shall be deemed to have been given at the time of personal delivery or, in the case of overnight courier service or certified mail, 3 business days after the date and time of mailing or, in the case of overnight delivery service, one business day after the date and time of mailing.

(c) We and you recognize that more than one individual may have a legal or equitable ownership interest in you. For this reason, and in order to (i) streamline communications between us; and (ii) protect and insulate us from potential claims from or liability to any Owner or principal of yours that may arise as a result of actions or inactions taken by us after having received conflicting advice or instructions from one or more Owners or principals, you have appointed as the designated spokesperson under this Section 20.1. The designated spokesperson shall have full authority to speak on behalf of, as well as bind and commit, you and all Owners with respect to all rights, obligations and performance under this Agreement. The designated spokesperson shall not be changed without the prior written consent of both you and us.

(d) The Manual, any revisions to the Manual and/or written instructions that we furnish to you relating to operational matters shall not be deemed to be “Notices” for purposes of the delivery requirements of this Section 20.1.

## **20.2 Entire Agreement**

This Agreement, the documents referred to in this Agreement, and the Exhibits, constitute the entire, full and complete agreement between us and you and your Owners concerning the subject matter hereof and shall supersede all prior related agreements between us and you and your Owners; provided, however, that nothing in this or any related agreement is intended to disclaim the representations made by us in the Disclosure Document we provided you. Except for those permitted to be made unilaterally by us under this Agreement, no amendment, change or variance from this Agreement shall be binding on either party unless mutually agreed to by the parties and executed by their authorized officers or agents in writing.

## **20.3 No Waiver**

No delay, waiver, omission or forbearance on our part to exercise any right, option, duty or power arising out of any breach or default by you or your Owners under this Agreement, or any similar agreement with another franchisee, or any breach or default by you, or by any other franchisee, of any of the terms, provisions, or covenants thereof, and no custom or practice by the parties at variance with the terms hereof, shall constitute a waiver by us to enforce any such right, option, duty or power against you or your Owners, or as to a subsequent breach or default by you or your Owners. Acceptance by us of any payments due to us under this Agreement subsequent to the time at which such payments are due shall not be deemed to be a waiver by us of any preceding breach by you or your Owners of any terms, provisions, covenants or conditions of this Agreement.

## **20.4 Our Prior Approval**

Whenever this Agreement requires our prior approval or consent, you must make a timely written request to us with all required documentation and information, and such approval or consent shall not be binding until it is obtained in writing.



## **20.5 No Warranty or Guaranty**

We make no warranties or guarantees upon which you may rely and assume no liability or obligation to you or any third party to which we would not otherwise be subject, by providing any waiver, approval, advice, consent or suggestion to you in connection with this Agreement, or by reason of any neglect, delay or denial of any request therefor.

## **20.6 Continued Obligation to Pay Sums**

If a Force Majeure event shall occur, then, in addition to payments required under Section 17.1(d), you will continue to be obligated to pay to us any and all amounts that you shall have duly become obligated to pay in accordance with the terms of this Agreement prior to the occurrence of any Force Majeure event and the Indemnitees shall continue to be indemnified and held harmless by you in accordance with Section 15. Except as provided in Section 17.1(d) and the immediately preceding sentence of this Section 20.6, none of the parties to this Agreement will be held liable for a failure to comply with any terms and conditions of this Agreement when such failure is caused by an event of Force Majeure. Upon the occurrence of any event of the type referred to in this Agreement, the party affected thereby shall give prompt notice of the occurrence to the other party, together with a description of the event, the duration for which the party expects its ability to comply with the provisions of this Agreement to be affected thereby and a plan for resuming operation under this Agreement, which the party shall promptly undertake and maintain with due diligence. Such affected party shall be liable for failure to give timely notice only to the extent of damage actually caused.

## **20.7 Acceptance of Agreement**

Your Owners and we acknowledge that the negotiation and acceptance of this Agreement by the parties occurred in Cook County, Illinois, and further acknowledge that the performance of certain obligations arising under this Agreement, including, without limitation, the payment of monies due under this Agreement and the satisfaction of certain training requirements of ours, shall occur in Illinois.

## **20.8 Execution in Multiple Counterparts**

This Agreement may be executed in multiple counterparts, each of which when so executed shall be an original, and all of which shall constitute one and the same instrument. Electronic signatures (e.g., DocuSign) shall be deemed to be originals.

## **20.9 Captions**

The captions used in connection with the sections and subsections of this Agreement are inserted only for purpose of reference. Such captions shall not be deemed to govern, limit, modify or in any other manner affect the scope, meaning or intent of the provisions of this Agreement or any part of it nor shall such captions otherwise be given any legal effect.

## **20.10 Survival of Terms**

Any obligation of you or your Owners that contemplates performance of such obligation after termination or expiration of this Agreement or the transfer of any interest of you or your Owners in this Agreement, shall be deemed to survive such termination, expiration or transfer, regardless of whether it is expressly stated in this Agreement.

## **20.11 Severability of Provisions**

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

#### **20.12 Joint and Several Obligations**

All references in this Agreement to the masculine, neuter or singular shall be construed to include the masculine, feminine, neuter or plural, where applicable. Without limiting the obligations individually undertaken by your Owners under this Agreement, all acknowledgments, promises, covenants, agreements and obligations made or undertaken by you in this Agreement shall be deemed, jointly and severally, undertaken by all of your Owners.

#### **20.13 Rights and Remedies Cumulative**

All rights and remedies of the parties to this Agreement shall be cumulative and not alternative, in addition to and not exclusive of any other rights or remedies which are provided for in this Agreement or which may be available at law or in equity in case of any breach, failure or default or threatened breach, failure or default of any term, provision or condition of this Agreement or any other agreement between you or any of your affiliates and us. The rights and remedies of the parties to this Agreement shall be continuing and shall not be exhausted by any one or more uses thereof and may be exercised at any time or from time to time as often as may be expedient; and any option or election to enforce any such right or remedy may be exercised or taken at any time and from time to time. The expiration, earlier termination or exercise of our rights under Section 17 of this Agreement shall not discharge or release you or any of your Owners from any liability or obligation then accrued, or any liability or obligation continuing beyond, or arising out of, the expiration, the earlier termination or the exercise of such rights under this Agreement.

#### **20.14 Terminology**

The term “**Owners**” includes, collectively and individually, (1) your spouse, if you are an individual, (2) all officers, directors, members, managers and general partners (or persons holding comparable positions in non-corporate entities) of you and (3) all officers, directors, members, managers and general partners (or persons holding comparable positions in non-corporate entities) of any Owner that itself is an entity, in each case whom we designate as your Owners and all holders of an ownership interest in you and of any entity directly or indirectly controlling you, and any other person or entity controlling, controlled by or under common control with you.

#### **20.15 References**

Each reference in this Agreement to a corporation or partnership shall be deemed to also refer to a limited liability company and any other similar entity or organization. Each reference to the organizational documents, equity owners, directors, and officers of a corporation in this Agreement shall be deemed to refer to the functional equivalents of such organizational documents, equity owners, directors, and officers, as applicable, in the case of a limited liability company or any other entity or organization similar thereto.

#### **20.16 No Rights or Remedies Except to the Parties**

Except as expressly provided to the contrary in this Agreement, nothing in this Agreement is intended, nor shall be deemed, to confer upon any person or legal entity other than you, us, our officers, directors, members and employees and such of your and our respective successors and assigns as may be contemplated (and, as to you, authorized by Section 14), any rights or remedies under or as a result of this Agreement.

#### **20.17 Effectiveness of Agreement**

This Agreement shall not become effective until signed by an authorized officer of ours.

#### **20.18 Time is of the Essence**

You acknowledge that time is of the essence for all dates and times set forth in this Agreement and with respect to all payments to be made by you, and unless explicitly stated to the contrary, we are not required to send you any notice prior to or after the expiration of such time period and your failure to comply within such timeframes is a default under Section 17.1.

#### **20.19 Modification of the System**

(a) You understand and agree that the System must not remain static if it is to meet, without limitation, presently unforeseen changes in technology, competitive circumstances, demographics, populations, consumer trends, societal trends and other marketplace variables, and if it is to best serve the interests of us, you and all other franchisees.

(b) Accordingly, you expressly understand and agree that we may from time to time change the components of the System including, without limitation, altering the products, programs, services, methods, standards, forms, policies and procedures of that System; abandoning the System altogether in favor of another system in connection with a merger, acquisition, other business combination or for other reasons; adding to, deleting from or modifying those products, programs and services which your Taco Pros Restaurant is authorized and required to offer; modifying or substituting entirely the building, premises, equipment, signage, trade dress, décor, color schemes and uniform specifications and all other unit construction, design, appearance and operation attributes which you are required to observe under this Agreement; and changing, improving, modifying, or substituting other words or designs for, the Marks. You expressly agree to comply with any such modifications, changes, additions, deletions, substitutions and alterations; provided, however, that such changes shall not materially and unreasonably increase your obligations under this Agreement. You must accept, use and effectuate any such changes or modifications to, or substitution of, the System as if they were part of the System at the time that this Agreement was executed.

You further acknowledge and agree that we may modify the offer of our franchises to other franchisees or our ongoing relationship with other franchisees in any manner and at any time, which offers, agreements and/or modifications have or may have terms, conditions, and obligations which may differ from the terms, conditions, and obligations in this Agreement. The existence of different forms of agreement and the fact that existing or future franchisees may have different rights and obligations shall not in any manner eliminate, modify or affect the duties of the parties to this Agreement to comply with the terms of this Agreement.

(c) We shall not be liable to you for any expenses, losses or damages sustained by you as a result of any of the modifications contemplated in this Agreement. You hereby covenant not to commence or join in any litigation or other proceeding against us or any third party complaining of any such modifications or seeking expenses, losses or damages caused by any modifications. You expressly waive any claims, demands or damages arising from or related to the foregoing activities including, without

limitation, any claim of breach of contract, breach of fiduciary duty, fraud, and/or breach of the implied covenant of good faith and fair dealing.

#### **20.20 Reasonable Business Judgment**

Whenever we reserve discretion in a particular area or where we agree to exercise our rights under this Agreement reasonably, in good faith or as we deem necessary or advisable, we will satisfy our obligations whenever we exercise reasonable business judgment in making our decision or exercising our rights. Our decisions or actions will be deemed to be the result of reasonable business judgment, even if other reasonable or even arguably preferable alternatives are available, if our decision or action is intended, in whole or significant part, to promote or benefit the System and Taco Pros Restaurants generally, even if the decision or action also promotes our financial or other interest. Examples of items that will promote or benefit the System and all Taco Pros Restaurants include but are not limited to enhancing the value of the Marks, improving customer service and satisfaction, improving product quality, improving uniformity, enhancing or encouraging modernization and improving the competitive position of the System.

**[SIGNATURES FOLLOW]**

**IN WITNESS WHEREOF**, each of the parties has caused this Agreement to be executed by its duly-authorized representative.

**FRANCHISOR:**

TACO PROS INTERNATIONAL LLC

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

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

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

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

**FRANCHISEE:**

\_\_\_\_\_

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

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

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

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

**EXHIBIT A TO THE FRANCHISE AGREEMENT**  
**ACCEPTED LOCATION AND PROTECTED TERRITORY**

1. APPROVED LOCATION:

Pursuant to Section 1.2 of the Franchise Agreement, the Approved Location of the Taco Pros Restaurant is:

2. PROTECTED TERRITORY:

Pursuant to Section 1.4 of the Franchise Agreement, the Protected Territory is:

## EXHIBIT B TO THE FRANCHISE AGREEMENT

### FRANCHISOR ADDENDUM

**THIS FRANCHISOR ADDENDUM** (the “**Franchisor Addendum**”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, hereinafter referred to as “**Landlord**”, \_\_\_\_\_, hereinafter referred to as “**Tenant**”, and TACO PROS INTERNATIONAL LLC, an Illinois limited liability company, hereinafter referred to as “**Franchisor**” modifies that certain lease (the “**Lease**”) of even date herewith.

WITNESSETH:

WHEREAS, Landlord and Tenant are parties to the Lease, concerning real estate commonly described as \_\_\_\_\_ (“**Premises**”);

WHEREAS, Tenant intends to use the Premises for the operation of a Taco Pros Restaurant pursuant to a Franchise Agreement between Tenant and Franchisor using the Marks and system of doing business licensed to Tenant by Franchisor in the Franchise Agreement; and

WHEREAS, pursuant to the terms of the Franchise Agreement, Tenant’s Lease for the operation of the Taco Pros is subject to the approval of Franchisor and such Lease must contain certain terms required by Franchisor.

NOW, THEREFORE, in consideration of the mutual promises hereinafter contained, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. If \_\_\_\_\_ (“**Tenant**”) defaults under the Lease, or if Franchisor terminates Tenant’s franchise agreement covering the Premises, Landlord and Tenant acknowledge and agree that Franchisor will have the option to assume the Lease pursuant to the terms of this Franchisor Addendum which supplements and forms a part of the Lease.
2. Landlord agrees to give Franchisor written notice specifying all default(s) of Tenant under the Lease. Franchisor agrees to give written notice to Landlord if Franchisor terminates Tenant’s franchise agreement and, in such notice, will request that Landlord provide Franchisor with a copy of the Lease and specify any of Tenant’s defaults thereunder. All notices will be by nationally recognized overnight courier (with tracking capability).
3. Franchisor may, within 30 days from receipt of notice from Landlord that Tenant has defaulted under the Lease and failed to cure such default(s) as required or permitted by the terms of the Lease, or sending of notice to Landlord that Franchisor has terminated Tenant’s franchise agreement covering the Premises, notify Landlord of Franchisor’s decision to assume the Lease. If Franchisor exercises its right to assume the Lease by sending Landlord the required notice, immediately upon Franchisor’s receipt of possession of the Premises, Franchisor will cure all of Tenant’s monetary defaults under the Lease, begin curing all of Tenant’s non-monetary defaults under the Lease, and execute an agreement pursuant to which Franchisor agrees to assume all of Tenant’s rights and obligations under the Lease, subject to (i) Franchisor’s right, without the need to obtain Landlord’s consent, to sublet the Premises or assign the Lease to an approved franchisee of Franchisor provided Franchisor remains liable for the payment of rent and the performance of Tenant’s duties under the Lease (ii) Franchisor not being subject to any provision of the Lease that requires Tenant to continuously operate a business in the Premises during any period that the Premises is closed for

remodeling or while Franchisor is seeking to obtain and train a new franchisee, provided however, that such period of closure will not exceed 90 days in each instance and provided further that Franchisor continues to pay rent during such period of closure pursuant to the terms of the Lease; and (iii) Franchisor's right, if it subleases the Premises to a franchisee as provided above, to retain all consideration payable under such sublease.

4. If Franchisor exercises its right to assume the Lease, Tenant agrees to assign all of its right, title and interest in the Lease to Franchisor and, if Tenant does not do so within ten (10) days of Franchisor's written notice, Tenant appoints Franchisor as its agent to execute all documents that may be necessary for Franchisor to take assignment of the Lease. Notwithstanding anything to the contrary contained herein, Tenant shall remain liable to Landlord for all of its obligations under the Lease and to Franchisor for all amounts that Franchisor pays to Landlord to cure Tenant's defaults under the Lease, including interest, reasonable collection costs and de-identification costs (the parties acknowledging that Franchisor may enter the Premises without being guilty of trespass or tort to de-identify the Premises). Franchisor may assign this Franchisor Addendum and its rights hereunder to any affiliate, subsidiary or parent of Franchisor. This Franchisor Addendum may be signed in any number of counterparts by facsimile or otherwise, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. A facsimile signature may be used for any purpose in lieu of an original signature.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

LANDLORD:

TENANT:

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

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

FRANCHISOR:

TACO PROS INTERNATIONAL LLC

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



## EXHIBIT C TO THE FRANCHISE AGREEMENT

### STATEMENT OF OWNERSHIP INTERESTS AND FRANCHISEE'S OWNERS

- A. The following is a list of all shareholders, members, partners or other investors in Franchisee, including all investors who own or hold a direct or indirect interest in Franchisee, and a description of the nature of their interest:

<u>Name</u>	<u>Percentage of Ownership/Nature of Interest</u>
-------------	---------------------------------------------------

- B. In addition to the persons listed in paragraph A, the following is a list of all of Franchisee's "Owners" described in and designated pursuant to Section 20.14 of the Franchise Agreement. Each of Franchisee's Owners must execute the Confidentiality and Non-Competition Agreement substantially in the form set forth in Exhibit D (see Sections 10.2(b) and 10.3(f) of the Franchise Agreement):

## EXHIBIT D TO THE FRANCHISE AGREEMENT

### CONFIDENTIALITY AND NON-COMPETITION AGREEMENT

(For shareholders, officers, directors, members, managers, general partners and managers of Franchisee)

In consideration of my being a \_\_\_\_\_ of \_\_\_\_\_ (“Franchisee”), and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, I hereby acknowledge and agree that:

1. Pursuant to a Franchise Agreement dated \_\_\_\_\_, 20\_\_ (the “**Franchise Agreement**”), Franchisee has acquired the right and franchise from Taco Pros International LLC (“**Franchisor**”) to establish and operate a Taco Pros Restaurant and the right to use in the operation of the Taco Pros Restaurant the Franchisor’s trade names, service marks, trademarks, logos, emblems, and indicia of origin (the “**Marks**”), as they may be changed, improved and further developed from time to time in the Franchisor’s sole discretion, only at the following authorized location: \_\_\_\_\_ (the “**Approved Location**”).

2. Franchisor, as the result of the expenditure of time, skill, effort and resources has developed and owns a distinctive format and system (the “**System**”) for the establishment and operation of Taco Pros Restaurants featuring tacos, burritos, Mexican food, beverages and other approved menu items. Franchisor possesses certain proprietary and confidential information relating to the operation of the System, which includes certain proprietary trade secrets, recipes, methods, techniques, formats, specifications, systems, procedures, methods of business practices and management, sales and promotional techniques and knowledge of, and experience in, the operation of Taco Pros Restaurants (collectively the “**Confidential Information**”).

3. Any and all information, knowledge, know-how, and techniques which the Franchisor specifically designates as confidential shall be deemed to be Confidential Information for purposes of this Agreement.

4. As a \_\_\_\_\_ of the Franchisee, Franchisor and Franchisee will disclose the Confidential Information to me in furnishing to me training programs, the Franchisor’s Confidential Operations Manuals (the “**Manuals**”), and other general assistance during the term of the Franchise Agreement.

5. I will not acquire any interest in the Confidential Information, other than the right to utilize it in the operation of the Taco Pros Restaurant during the term of the Franchise Agreement. I acknowledge that the use or duplication of the Confidential Information for any use outside the System would constitute a breach of this Agreement and an unfair method of competition.

6. The Confidential Information is proprietary, involves trade secrets of Franchisor, and is being disclosed to me solely on the condition that I agree, and I do hereby agree, that I shall hold in strict confidence all Confidential Information and all other information designated by Franchisor as confidential. Unless Franchisor otherwise agrees in writing, I will disclose and/or use the Confidential Information only in connection with my duties as a \_\_\_\_\_ of Franchisee, and I will not disclose any such information even after I cease to be in that position, unless I can demonstrate that such information has become generally known or easily accessible other than by the breach of an obligation of Franchisee under the Franchise Agreement.

7. Except as otherwise approved in writing by Franchisor, I shall not, while in my position with Franchisee, either directly or indirectly for myself, or through, on behalf of, or in conjunction with any person, persons, partnership, or corporation, own, maintain, operate, engage in, or have any financial or beneficial interest in (including any interest in corporations, LLCs, partnerships, trusts, unincorporated associations or joint ventures), advise, assist, consult, make loans to, or lease or sublease to, any Competitive Business (defined below), which business is, or is intended to be, located within a 15-mile radius of the location of any Taco Pros Restaurant, regardless of whether such Taco Pros Restaurant is opened and operating, under construction, or Franchisor or a franchisee has committed to develop a Taco Pros Restaurant in such location. The prohibitions in this paragraph 7 do not apply to my interests in or activities performed in connection with a Taco Pros Restaurant. This restriction does not apply to my ownership of less than 5% beneficial interest in the outstanding securities of any publicly held corporation. For purposes of this Agreement, a "Competitive Business" is defined as any business which sells, for on- or off-premises consumption or carry-out or delivery, Mexican or Mexican-style food products, wherever located.

8. I agree that each of the foregoing covenants shall be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant in this Agreement is held unreasonable or unenforceable by a court or agency having valid jurisdiction in an unappealed final decision to which Franchisor is a party, I expressly agree to be bound by any lesser covenant subsumed within the terms of such covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated in and made a part of this Agreement.

9. Franchisor is a third-party beneficiary of this Agreement and may enforce it, solely and/or jointly with Franchisee. I am aware that my violation of this Agreement will cause Franchisor and Franchisee irreparable harm; therefore, I acknowledge and agree that Franchisee and/or Franchisor may apply for the issuance of an injunction preventing me from violating this Agreement, and I agree to pay Franchisee and Franchisor all the costs it/they incur(s), including, without limitation, legal fees and expenses, if this Agreement is enforced against me. Due to the importance of this Agreement to Franchisee and Franchisor, any claim I have against the Franchisee or the Franchisor is a separate matter and does not entitle me to violate, or justify any violation of this Agreement.

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

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

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

**EXHIBIT E TO THE FRANCHISE AGREEMENT**  
**ELECTRONIC TRANSFER AUTHORIZATION**

**AUTHORIZATION TO HONOR CHARGES DRAWN BY AND PAYABLE TO TACO PROS  
INTERNATIONAL LLC("FRANCHISOR")**

Depositor hereby authorizes and requests \_\_\_\_\_ (the "Depository") to initiate debit and credit entries to Depositor's ☐ checking or ☐ savings account (select one) indicated below drawn by and payable to the order of Taco Pros International LLC by Electronic Funds Transfer, provided there are sufficient funds in said account to pay the amount upon presentation.

Depositor agrees that the Depository's rights with respect to each such charge shall be the same as if it were a check drawn by the Depository and signed by Depositor. Depositor further agrees that if any such charge is dishonored, whether with or without cause and whether intentionally or inadvertently, the Depository shall be under no liability whatsoever.

Depository Name: \_\_\_\_\_

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

Transit/ABA Number: \_\_\_\_\_ Account Number: \_\_\_\_\_

This authority is to remain in full force and effect until Franchisor has received written notification from me (or either of us) of its termination in such time and in such manner to afford Franchisor and Depository a responsible opportunity to act on such request.

Depositor: (Please Print)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date Signed

\_\_\_\_\_

\_\_\_\_\_

Signature(s) of Depositor, as Printed Above

**Please attach a voided blank check, for purposes of setting up Bank and Transit Numbers.**

## EXHIBIT F TO THE FRANCHISE AGREEMENT

### INTERNET WEB SITES AND TELEPHONE NUMBERS AGREEMENT

This INTERNET WEB SITES AND TELEPHONE NUMBERS AGREEMENT (the “**Agreement**”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (“**Effective Date**”), by and between **TACO PROS INTERNATIONAL LLC**, an Illinois limited liability company (“**Franchisor**”) and \_\_\_\_\_, a \_\_\_\_\_ (“**Franchisee**”).

#### W I T N E S S E T H:

**WHEREAS**, Franchisee desires to enter into a Franchise Agreement with Franchisor for the operation of a Taco Pros Restaurant (the “Franchise Agreement”)

**WHEREAS**, Franchisor would not enter into the Franchise Agreement without Franchisee’s agreement to enter into, comply with, and be bound by all the terms and provisions of this Agreement.

**NOW THEREFORE**, for and in consideration of the foregoing and the mutual promises and covenants contained herein, and in further consideration of the Franchise Agreement and the mutual promises and covenants contained therein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

#### 1. **DEFINITIONS**

All terms used but not otherwise defined in this Agreement shall have the meanings set forth in the Franchise Agreement. “Termination” of the Franchise Agreement shall include, but shall not be limited to, the voluntary termination, involuntary termination, or natural expiration thereof.

#### 2. **TRANSFER; APPOINTMENT**

2.1 Interest in Telephone Numbers and Internet Web Sites. Franchisee may acquire during the term of the Franchise Agreement, certain right, title, and interest in and to certain telephone numbers, and regular, classified, yellow-page, and other telephone directory listings (collectively, the “Telephone Numbers and Listings”) and certain domain names, hypertext markup language, uniform resource locator addresses, and access to corresponding Internet web sites, and the right to hyperlink to certain web sites and listings on various Internet search engines (collectively, the “Internet Web Sites and Listings”) related to the Taco Pros Restaurant or the Marks (all of which right, title, and interest is referred to herein as “Franchisee’s Interest”).

2.2 Transfer. On Termination of the Franchise Agreement, or on periodic request of Franchisor, Franchisee will immediately direct all telephone companies, telephone directory publishers, and telephone directory listing agencies (collectively, the “Telephone Companies”) and all Internet Service Providers, domain name registries, Internet search engines, and other listing agencies (collectively, the “Internet Companies”) with which Franchisee has Telephone Numbers and Listings and Internet Web Sites and Listings: (i) to transfer all of Franchisee’s Interest in such Telephone Numbers and Listings and Internet Web Sites and Listings to Franchisor; and (ii) to execute such documents and take such actions as may be necessary to effectuate such transfer. In the event Franchisor does not desire to accept any or all such Telephone Numbers and Listings and Internet Web Sites and Listings, Franchisee will immediately direct the Telephone Companies and Internet Companies to terminate such Telephone Numbers and Listings and Internet Web Sites and Listings or will take such other actions with respect to the Telephone Numbers and Listings and Internet Web Sites and Listings as Franchisor directs.

2.3 Appointment; Power of Attorney. Franchisee hereby constitutes and appoints Franchisor and any officer or agent of Franchisor, for Franchisor's benefit under the Franchise Agreement and this Agreement or otherwise, with full power of substitution, as Franchisee's true and lawful attorney-in-fact with full power and authority in Franchisee's place and stead, and in Franchisee's name or the name of any affiliated person or affiliated company of Franchisee, to take any and all appropriate action and to execute and deliver any and all documents that may be necessary or desirable to accomplish the purposes of this Agreement. Franchisee further agrees that this appointment constitutes a power coupled with an interest and is irrevocable until Franchisee has satisfied all of its obligations under the Franchise Agreement and any and all other agreements to which Franchisee and any of its affiliates on the one hand, and Franchisor and any of its affiliates on the other, are parties, including, without limitation this Agreement. Without limiting the generality of the foregoing, Franchisee hereby grants to Franchisor the power and right to do the following:

(i) Direct the Telephone Companies and Internet Companies to transfer all Franchisee's Interest in and to the Telephone Numbers and Listings and Internet Web Sites and Listings to Franchisor;

(ii) Direct the Telephone Companies and Internet Companies to terminate any or all of the Telephone Numbers and Listings and Internet Web Sites and Listings; and

(iii) Execute the Telephone Companies' and Internet Companies' standard assignment forms or other documents in order to affect such transfer or termination of Franchisee's Interest.

2.4 Certification of Termination. Franchisee hereby directs the Telephone Companies and Internet Companies to accept, as conclusive proof of Termination of the Franchise Agreement, Franchisor's written statement, signed by an officer or agent of Franchisor that the Franchise Agreement has terminated.

2.5 Cessation of Obligations. After the Telephone Companies and Internet Companies have duly transferred all Franchisee's Interest in such Telephone Numbers and Listings and Internet Web Sites and Listings to Franchisor, as between Franchisee and Franchisor, Franchisee will have no further interest in, or obligations under, such Telephone Numbers and Listings and Internet Web Sites and Listings. Notwithstanding the foregoing, Franchisee will remain liable to each and all of the Telephone Companies and Internet Companies for the sums Franchisee is obligated to pay such Telephone Companies and Internet Companies for obligations Franchisee incurred before the date Franchisor duly accepted the transfer of such interest, or for any other obligations not subject to the Franchise Agreement or this Agreement.

### **3. MISCELLANEOUS**

3.1 Release. Franchisee hereby releases, remises, acquits, and forever discharges each and all of the Telephone and Internet Companies and each and all of their parent corporations, subsidiaries, affiliates, directors, officers, stockholders, employees, and agents, and the successors and assigns of any of them, from any and all rights, demands, claims, damage, losses, costs, expenses, actions, and causes of action whatsoever, whether in tort or in contract, at law or in equity, known or unknown, contingent or fixed, suspected or unsuspected, arising out of, asserted in, assertable in, or in any way related to this Agreement.

3.2 Indemnification. Franchisee is solely responsible for all costs and expenses related to its performance, nonperformance, and Franchisor's enforcement of this Agreement, which costs and

expenses Franchisee will pay Franchisor in full, without defense or setoff, on demand. Franchisee will indemnify, defend, and hold harmless Franchisor and its affiliates, and its and their directors, officers, shareholders, partners, members, employees, agents, and attorneys, and the successors and assigns of any and all of them, from and against, and will reimburse Franchisor and any and all of them for, any and all loss, losses, damage, damages, claims, debts, claims, demands, or obligations that are related to or are based on this Agreement.

3.3 No Duty. The powers conferred on Franchisor hereunder are solely to protect Franchisor's interests and shall not impose any duty on Franchisor to exercise any such powers. Franchisee expressly agrees that in no event shall Franchisor be obligated to accept the transfer of any or all of Franchisee's Interest in any or all such Telephone Numbers and/or Internet Web Sites and Listings.

3.4 Further Assurances. Franchisee agrees that at any time after the date hereof, Franchisee will perform such acts and execute and deliver such documents as may be necessary to assist in or accomplish the purposes of this Agreement.

3.5 Successors, Assigns, and Affiliates. All Franchisor's rights and powers, and all Franchisee's obligations, under this Agreement shall be binding on Franchisee's successors, assigns, and affiliated persons or entities as if they had duly executed this Agreement.

3.6 Effect on Other Agreements. Except as otherwise provided in this Agreement, all provisions of the Franchise Agreement and exhibits and schedules thereto shall remain in effect as set forth therein.

3.7 Survival. This Agreement shall survive the Termination of the Franchise Agreement.

3.8 Joint and Several Obligations. All Franchisee's obligations under this Agreement shall be joint and several.

3.9 Governing Law. This Agreement shall be governed by and construed under the laws of the State of Illinois, without regard to the application of Illinois conflict of law rules.

IN WITNESS WHEREOF, the undersigned have executed or caused their duly authorized representatives to execute this Agreement as of the Effective Date.

FRANCHISOR:  
TACO PROS INTERNATIONAL LLC

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

FRANCHISEE:

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



**EXHIBIT G TO THE FRANCHISE AGREEMENT**

**POWER OF ATTORNEY (TAX)**

## IRREVOCABLE POWER OF ATTORENY

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ )

KNOW ALL MEN BY THESE PRESENTS

That \_\_\_\_\_, a \_\_\_\_\_ (“Franchisee), does hereby irrevocably constitute and appoint **TACO PROS INTERNATIONAL LLC**, an Illinois limited liability company (“Franchisor”), true and lawful attorney-in-fact and agent for Franchisee and in Franchisee’s name, place and stead to do or cause to be done all things and to sign, execute, acknowledge, certify, deliver, accept, record and file all such agreements, certificates, instruments and documents as, in the sole discretion of Franchisor, shall be necessary or advisable for the sole purpose of obtaining any and all returns, records, reports and other documentation relating to the payment of taxes filed by Franchisee with any state and/or federal taxing authority, including, but not limited to, the State of \_\_\_\_\_, hereby granting unto Franchisor full power and authority to do and perform any and all acts and things which, in the sole discretion of Franchisor, are necessary or advisable to be done as fully to all intents and purposes as Franchisee might or could itself do, hereby ratifying and confirming all the Franchisor may lawfully do or cause to be done by virtue of this Power of Attorney and the powers herein granted.

During the term of this Power of Attorney, and regardless of whether Franchisee has designated any other person to act as its attorney-in-fact and agent, no governmental agency, person, firm or corporation dealing with Franchisor, if acting in good faith, shall be required to ascertain the authority of Franchisor, nor to see to the performance of the agency, nor be responsible in any way for the proper application of documents delivered or funds or property paid or delivered to Franchisor. Any governmental agency, person, firm or corporation dealing with franchisor shall be fully protected in acting and relying on a certificate of Franchisor that this Power of Attorney on the date of such certificate has not been revoked and is in full force and effect, and Franchisee shall not take any action against any person, firm, corporation or agency acting in reliance of such a certificate or a copy of this Power of Attorney. Any instrument or document executed on behalf of Franchisee by Franchisor shall be deemed to include such a certificate on the part of Franchisor, whether or not expressed. This paragraph shall survive any termination of this Power of Attorney.

This Power of Attorney shall terminate 2 years following the expiration or termination of that certain Franchise Agreement dated as of \_\_\_\_\_, 20\_\_ by and between Franchisor and Franchisee. Such termination, however, shall not affect the validity of any act or deed that Franchisor may have effected prior to such date pursuant to the powers herein granted.

This instrument is to be construed and interpreted as an irrevocable power of attorney coupled with an interest. It is executed and delivered in the State of Illinois and the laws of the State of Illinois shall govern all questions as to the validity of this Power of Attorney and the construction of its provisions.

IN WITNESS WHEREOF, the undersigned has executed this Power of Attorney as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_, \_\_\_\_\_

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

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

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

STATE OF \_\_\_\_\_ )

\_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, who acknowledged to me that he/she executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(SEAL)

\_\_\_\_\_  
Notary Public in and for

The State of \_\_\_\_\_

My commission expires:

\_\_\_\_\_

**ATTACHMENT H TO THE FRANCHISE AGREEMENT**

**STATE SPECIFIC ADDENDUM**

ILLINOIS

Illinois law governs the Franchise Agreement(s).

In conformance with Section 4 of the Illinois Franchise Disclosure Act, any provision in a franchise agreement that designates jurisdiction and venue in a forum outside of the State of Illinois is void. However, a franchise agreement may provide for arbitration to take place outside of Illinois.

Your rights upon Termination and Non-Renewal are set forth in sections 19 and 20 of the Illinois Franchise Disclosure Act.

In conformance with section 41 of the Illinois Franchise Disclosure Act, any condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with the Illinois Franchise Disclosure Act or any other law of Illinois is void.

Franchisor:

Taco Pros International LLC

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

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

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

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

Franchisee:

\_\_\_\_\_

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

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

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

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

## EXHIBIT I TO THE FRANCHISE AGREEMENT

### **TRANSFER OF A FRANCHISE TO A CORPORATION OR LIMITED LIABILITY COMPANY**

This Transfer Agreement shall amend that certain Franchise Agreement between \_\_\_\_\_  
\_\_\_\_\_ (“Franchisee”), and Taco Pros International LLC (“Franchisor”).

The undersigned, an Officer, Director and Owner of a majority of the issued and outstanding voting stock of the Corporation set forth below, or Members of the issued and outstanding Interests of the Limited Liability Company set forth below, and the Franchisee of the Taco Pros Restaurant under a Franchise Agreement executed on the date set forth below, between himself or herself and Franchisor, granting him/her a franchise to operate in the Development Area set forth below, and the other undersigned Directors, Officers and Shareholders of the Corporation, or the Members of the Limited Liability Company, who together with Franchisee constitute all of the Shareholders of the Corporation, or the Members of the Limited Liability Company, in order to induce Franchisor to consent to the assignment of the Franchise Agreement to the Corporation or Limited Liability Company in accordance with the provisions of Section 14 of the Franchise Agreement, agree as follows:

1. The undersigned Franchisee shall remain personally liable in all respects under the Franchise Agreement and all the other undersigned Officers, Directors and Shareholders of the Corporation, or the Members of the Limited Liability Company, intending to be legally bound hereby, agree jointly and severally to be personally bound by the provisions of the Franchise Agreement including the restrictive covenants contained in Section 10 of this Agreement, to the same extent as if each of them were the Franchisee set forth in the Franchise Agreement and they jointly and severally personally guarantee all of the Franchisee’s obligations set forth in said Agreement.

2. The undersigned agree not to transfer any stock in the Corporation, or any interest in the Limited Liability Company without the prior written approval of the Franchisor and agree that all stock certificates representing shares in the Corporation, or all certificates representing interests in the Limited Liability Company shall bear the following legend:

“The shares of stock represented by this certificate are subject to the terms and conditions set forth in a Franchise Agreement dated \_\_\_\_\_, 20\_\_\_\_ between \_\_\_\_\_ and Taco Pros International LLC.”

or

“The ownership interests represented by this certificate are subject to the terms and conditions set forth in a Franchise Agreement dated \_\_\_\_\_, 20\_\_\_\_ between \_\_\_\_\_ and Taco Pros International LLC”

3. \_\_\_\_\_ or his designee shall devote his best efforts to the day-to-day operation and development of the Taco Pros Restaurant.

4. \_\_\_\_\_ hereby agrees to become a party to and to be bound by all of the provisions of the Franchise Agreement executed on the date set forth below between Franchisee and Franchisor, to the same extent as if it were named as the Franchisee therein.

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

Location of Taco Pros Restaurant: \_\_\_\_\_

**FRANCHISEE**

\_\_\_\_\_

ATTEST/WITNESS:

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

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

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

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

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

APPROVED:

FRANCHISOR:

TACO PROS INTERNATIONAL LLC

ATTEST:

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

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

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

\_\_\_\_\_  
\_\_\_\_\_, Secretary

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

## EXHIBIT J TO THE FRANCHISE AGREEMENT

### GUARANTY OF OWNERS

(to be signed by each Owner)

The undersigned represent, warrant and agree as follows:

1. I/We, as Owners, hold a direct or indirect interest in \_\_\_\_\_ a(n) \_\_\_\_\_ (“Franchisee”), Franchisee under that Taco Pros Restaurant Franchise Agreement dated \_\_\_\_\_ (the “Franchise Agreement”).

2. I/We acknowledge that the execution of this Guaranty is in consideration for, and a condition to, the granting of this franchise, and that Franchisor would not have entered into the Franchise Agreement without the execution of this Guaranty.

3. I/We, jointly and severally, unconditionally and irrevocably guarantee to Franchisor and its successors and assigns full and punctual payment of Franchisee’s obligations under the Franchise Agreement and the performance of all of Franchisee’s other obligations under this Franchise Agreement, including without limitation all obligations contained in Section 10 of the Franchise Agreement, “Confidentiality and Non-Competition Covenants”. Upon default by Franchisee or upon notice from Franchisor, I/we will immediately make each payment and perform each obligation required of Franchisee under the Franchise Agreement.

4. I/We acknowledge that, without affecting the obligations of any of us under this Guaranty, Franchisor may, without notice, waive, renew, extend, modify, amend or release any indebtedness or obligation of Franchisee or settle, adjust or compromise any claims that Franchisor may have against Franchisee. I/We waive all demand and notices of every kind with respect to the enforcement of this guaranty, including, without limitation, notice of presentment, demand for payment or performance by Franchisee, any default by Franchisee or any guarantor and any release of any guarantor or other security for this guaranty or the obligations of Franchisee. Franchisor may pursue its rights against me/us, jointly or severally, without first exhausting its remedies against Franchisee and without joining any other guarantor hereto and no delay on the part of Franchisor in the exercise of any right or remedy shall operate as a waiver of such right or remedy, and no single or partial exercise by Franchisor of any right or remedy shall preclude the further exercise of such right or remedy. Our successors and assigns shall be bound by this Guaranty.

**WITNESS:**

**OWNERS(S):**

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

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

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

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

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

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

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

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



**EXHIBIT C**

**AREA DEVELOPMENT AGREEMENT**



**TACO PROS INTERNATIONAL LLC**

**AREA DEVELOPMENT AGREEMENT**

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AREA DEVELOPER

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DATE OF AGREEMENT

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## **EXHIBITS:**

A	Minimum Performance Schedule
B	Development Area
C	Certification by Area Developer
D	Guaranty
E	Transfer of a Franchise to a Corporation or Limited Liability Company
F	State Specific Addendum

## AREA DEVELOPMENT AGREEMENT

**THIS AREA DEVELOPMENT AGREEMENT** (this “**Agreement**”) is made and entered into by and between **Taco Pros International LLC**, an Illinois limited liability company whose address is \_\_\_\_\_ (“**we**”, “**us**” or “**our**”), and \_\_\_\_\_, a(n) \_\_\_\_\_ whose address is \_\_\_\_\_ (“**you**” or “**your**”), and is executed on the date set forth below our signature (the “**Effective Date**”).

### **RECITALS**

**WHEREAS**, as the result of the expenditure of time, skill, effort and money, we have developed and own a unique and distinctive system (the “**System**”) for the establishment and operation of full-service, carry-out and delivery restaurants operating under the name “Taco Pros,” featuring Mexican dishes, burritos, rice, beverages, and related food products.

**WHEREAS**, the distinguishing characteristics of the System include, without limitation, distinctive exterior and interior design, construction standards, décor, color scheme and furnishings; specific equipment brands and specifications; proprietary products and ingredients; proprietary recipes and special menu items, uniform standards, specifications and procedures for operations; quality and uniformity of products and services offered; procedures for inventory, management and financial control; training and assistance; and advertising and promotional programs; all of which may be modified, improved and further developed by us from time to time.

**WHEREAS**, we identify the System by means of certain trade names, service marks, trademarks, logos, emblems and indicia of origin, including, without limitation, the marks “Taco Pros” and such other trade names, service marks and trademarks as are now designated and may be designated from time to time in the future for use in connection with the System (the “**Marks**”).

**WHEREAS**, we continue to develop and use the Marks to identify to the public the source of services and products marketed under the Marks and the System, and to represent the System’s high standards of quality, appearance and service.

**WHEREAS**, you wish to obtain certain development rights to open and operate Taco Pros Restaurants operating under the Marks and the System within the Development Area described in this Agreement.

**NOW, THEREFORE**, in consideration of the mutual undertakings and commitments set forth in this Agreement, the receipt and sufficiency of which are hereby acknowledged, you and we hereby agree as follows:

### **SECTION 1** **GRANT**

1.1 We hereby grant to you, pursuant to the terms and conditions of this Agreement, certain development rights (“**Development Rights**”) to establish and operate \_\_\_\_\_ ( ) franchised Taco Pros Restaurants, and to use the Marks and the System solely in connection therewith at specific locations to be designated in separate Franchise Agreements executed as provided in Section 3 of this Agreement, and pursuant to the schedule established in Exhibit A to this Agreement (the “**Minimum Performance Schedule**”). Each Taco Pros Restaurant developed under this Agreement shall be located in the area(s) described in Exhibit B to this Agreement (the “**Development Area**”).

1.2 Each Taco Pros Restaurant for which a Development Right is granted under this Agreement shall be established and operated pursuant to a Franchise Agreement to be entered into between you and us in accordance with Section 3 of this Agreement.

1.3 This Agreement is not a Franchise Agreement and does not grant to you any right to use the Marks or System.

1.4 You are not permitted to franchise others under the Marks or System.

## **SECTION 2**

### **FRANCHISE FEE**

2.1 In consideration of the Area Development Rights, upon your execution of this Agreement, you must:

(a) pay to us (i) the sum of \$35,000, which is equal to the initial franchise fee of \$35,000 for the first Taco Pros Restaurant you commit to develop under this Agreement, plus (ii) an amount equal to \$12,500 (being one half of the discounted franchise fee) multiplied by the number of Taco Pros Restaurants you commit to develop under this Agreement beyond the first Taco Pros Restaurant; and

(b) execute our then-current Franchise Agreement for the first Taco Pros Restaurant you commit to develop under this Agreement.

2.2 The fees you pay us under Section 2.1(a) will be applied as the initial franchise fee of \$35,000 due for your first Taco Pros Restaurant. Upon execution of each lease (or purchase agreement, if applicable) for each Taco Pros Restaurant you develop after your first Restaurant, you will execute our then- current form Franchise Agreement and pay to us the sum of \$12,500, representing the balance of the discounted initial franchise fee of \$25,000.

2.3 All fees paid and payable under this Agreement are fully earned by us upon receipt and are not refundable for any reason.

## **SECTION 3**

### **SCHEDULE AND MANNER FOR EXERCISING DEVELOPMENT RIGHTS**

3.1 You will assume all responsibility and expense for locating potential sites for Taco Pros Restaurants and you will submit to us for our evaluation and acceptance, in the form specified by us, a description of each site, the terms of the proposed lease or purchase, a market feasibility study for the site and such other information and materials as we may reasonably require, together with a letter of intent or other evidence satisfactory to us which confirms your favorable prospects for obtaining the site. If we accept the site, you will then be presented with the Franchise Agreement for execution.

3.2 Recognizing that time is of the essence, you agree to exercise the Development Rights granted under this Agreement in the manner specified in this Agreement, and to satisfy the Minimum Performance Schedule in a timely manner. Your failure to adhere to the Minimum Performance Schedule will constitute a default under this Agreement as provided in Section 8.1 of this Agreement. Under no circumstances may you open a Taco Pros Restaurant for business unless and until there is a fully executed Franchise Agreement in place for such Taco Pros Restaurant and you have paid in full the franchise fee for such Taco Pros Restaurant.

3.3 You shall exercise the Development Rights granted under this Agreement only by executing a Franchise Agreement for each Taco Pros Restaurant at a site in the Development Area accepted by us as provided in this Agreement. The Franchise Agreements for the first two Taco Pros Restaurants to be developed in the Development Area have been executed contemporaneously with this Agreement. The Franchise Agreement for each additional Taco Pros Restaurant to be developed under this Agreement shall be our then-current Franchise Agreement, which may contain materially different terms than our current Franchise Agreement, including higher Royalty Fees and Advertising Fund Fees. In the event we do not receive the properly executed Franchise Agreement within 10 days after delivery of this Agreement to you, our acceptance of the proposed site shall be void and you shall have no rights to develop a Taco Pro Restaurant with respect to said site.

3.4 You acknowledge that our acceptance of a particular site for an Taco Pros Restaurant shall not be deemed to be an assurance or guaranty that the Taco Pros Restaurant will operate successfully or at a profit, and you specifically waive any claims to this effect.

3.5 You are required to execute each Franchise Agreement and own a minimum of 51% of the issued and outstanding stock or membership interest, as the case may be, for each Taco Pros Restaurant to be developed under this Agreement. In no event shall you relinquish control over each entity operating each Taco Pros Restaurant.

#### **SECTION 4**

#### **DEVELOPMENT RIGHTS AND OBLIGATIONS**

4.1 Subject to the provisions of this Agreement, we grant to you the Development Rights, as described in Section 1.1. Notwithstanding any other provision of this Agreement, Development Rights under this Agreement do not include the right to develop Taco Pros Restaurants at any “Non-Traditional Sites,” including, without limitation, military bases, Indian reservations, shopping malls, hotels, educational institutions, airports, train and bus stations, travel plazas, toll roads, beaches, parks and other recreational facilities, government buildings and establishments, prisons, hospitals, convenience stores, cafeterias, snack bars, trucks, casinos, sports or entertainment venues or stadiums, and retail restaurant locations being sublet under a lease to a master concessionaire, whether currently existing or constructed or established subsequent to the date of this Agreement. We, at all times, reserve the right to open and operate, or grant others the right to open and operate, Taco Pros Restaurants at any Non-Traditional Site.

4.2 Provided you are in full compliance with all the terms and conditions of this Agreement, including without limitation your development obligations described in Section 3.2, and you and your affiliates are in full compliance with all of your obligations under all Franchise Agreements executed pursuant to this Agreement, then during the term of this Agreement and except as otherwise provided in this Agreement, neither we nor any of our affiliates will develop or operate or grant franchises for the development or operation of Taco Pros Restaurants within the Development Area, except as set forth in Section 4.1.

4.3 Upon the termination or expiration of this Agreement, all rights for you to establish Taco Pros Restaurants will cease, and we and our affiliates shall have the unlimited right to develop and operate, and to grant to others development rights and franchises to develop and operate, Taco Pros Restaurants, and sell and distribute products and/or services, subject only to the territorial rights granted to you under Franchise Agreements signed pursuant to this Agreement.

4.4 Except as expressly limited above, the Development Rights granted under this Agreement are non-exclusive, and we and our affiliates retain all rights with respect to Taco Pros Restaurants, the

System, the Marks and the sale of any goods and services, anywhere in the world, including, without limitation, the rights to:

(a) produce, offer and sell and to grant others the right to produce, offer and sell the products offered at Taco Pros Restaurants and any other goods displaying the Marks or other trade and service marks through Alternative Distribution Channels, as described below, both within and outside the Development Area, and under any terms and conditions we deem appropriate. Alternative Distribution Channels include, but are not limited to, the internet, catalog sales, retail stores, club stores, telemarketing or other marketing methods;

(b) operate and to grant others the right to operate Taco Pros Restaurants located outside of the Development Area under any terms and conditions we deem appropriate and regardless of the proximity to any other Taco Pros Restaurant;

(c) operate and to grant others the right to operate Taco Pros Restaurants at Non-Traditional Sites within and outside of the Development Area under any terms and conditions we deem appropriate;

(d) acquire and operate a business operating one or more restaurants or food service businesses located or operating in the Development Area; and

(e) own, acquire, establish and/or operate, and license others the right to establish and operate, businesses under other proprietary marks or other systems, whether such businesses are the same, similar, or different from Taco Pros Restaurants, at any location within or outside the Development Area.

## **SECTION 5**

### **TERM**

5.1 Unless sooner terminated in accordance with the terms of this Agreement, the term of this Agreement (the “**Term**”) and all Development Rights granted under this Agreement shall expire on the earlier of the date the last Taco Pros Restaurant must be opened for business to the public pursuant to the Minimum Performance Schedule or the date the last Taco Pros Restaurant is opened for business to the public.

## **SECTION 6**

### **YOUR OBLIGATIONS**

6.1 You acknowledge and agree that:

(a) Except as otherwise provided herein, this Agreement grants you only the right to select sites for the establishment of Taco Pros Restaurants and to submit those sites to us for our approval in accordance with the terms of this Agreement. This Agreement does not include the grant of a license by us to you of any rights to use the Marks, the System, or to open or operate any Taco Pros Restaurants within the Development Area. You will obtain the license to open and operate Taco Pros Restaurants upon the execution of each Franchise Agreement by both you and us and only in accordance with the terms of each Franchise Agreement.

(b) The Development Rights granted under this Agreement are personal to you and cannot be sold, assigned, transferred or encumbered, in whole or in part, except as set forth in Section 10 of this Agreement.

(c) You have sole responsibility for the performance of all obligations arising out of the operation of your business pursuant to this Agreement, including, but not limited to, the payment when due of any and all taxes levied or assessed by reason of such operation.

(d) In all public records, in your relationship with other persons, and in any documents, you must indicate clearly that your business is independently owned and operated, and that it is separate and distinct from the operation of a Taco Pros Restaurant.

(e) You must at all times preserve in confidence any and all materials and information furnished or disclosed to you by us and you will disclose such information or materials only to such of your employees, representatives or agents who must have access to it in connection with their employment.

(f) You must not at any time, without our prior written consent, copy, duplicate, record or otherwise reproduce such materials or information, in whole or in part, nor otherwise make the same available to any unauthorized person.

(g) You must comply with all requirements of federal, state and local laws, rules and regulations.

(h) You shall not have the right to sub-franchise or assign any of your Development Rights under this Agreement.

(i) You must not open a Taco Pros Restaurant for business unless and until you and we have executed a Franchise Agreement for such Taco Pros Restaurant and you have paid the initial franchise fee for such Taco Pros Restaurant.

## **SECTION 7** **OUR SERVICES**

7.1 We will, at our expense, provide the following services:

(a) Review your proposed sites for conformity to our standards and criteria for selection and acquisition of sites upon our receipt of your written request for approval pursuant to the terms of this Agreement.

(b) Provide you with consultation as to the implementation of our standard specifications and layouts for the interior and exterior design, improvements, equipment, furnishings, décor and signs identified with Taco Pros Restaurants as we make available to all area developers and franchisees from time to time.

(c) Review your site plan and final build-out plans and specifications for conformity to the construction standards and specifications of the System, upon our receipt of your written request for approval pursuant to the terms of this Agreement.



(d) Provide such other resources and assistance as we may develop and offer to other area developers from time to time.

## **SECTION 8**

### **DEFAULT AND TERMINATION**

8.1 The occurrence of any of the following events of default will constitute cause for us to terminate this Agreement upon notice to you without opportunity to cure the default, except where prohibited by any applicable state or federal law, whereupon this Agreement shall be terminated in accordance with the provisions of any such law:

(a) If you purport to effect any assignment other than in accordance with Section 10 of this Agreement.

(b) Except as provided in Section 10 of this Agreement, if you attempt to sell, assign, transfer or encumber this Agreement prior to the time that at least 40% of the Taco Pros Restaurants to be constructed and opened for business in accordance with the Minimum Performance Schedule are, in fact, open or under construction.

(c) If you make, or have made, any material misrepresentation to us in connection with your execution of this Agreement, any site approval under this Agreement, or any Franchise Agreement.

(d) If you default in the performance of any monetary or any other obligation under any Franchise Agreement with us.

(e) If you violate any law, ordinance, rule or regulation of a governmental agency in connection with the operation of any of your Taco Pros Restaurants and permit the same to go uncorrected after notification.

(f) If you or any owner of yours is convicted in a court of competent jurisdiction of an indictable offense punishable by a term of imprisonment in excess of one year.

(g) If you, or any of your partners, if you are a partnership, or any of your officers, directors, shareholders or members, if you are a corporation or limited liability company, shall become insolvent or make a general assignment for the benefit of creditors; if a petition in bankruptcy is filed by you or such a petition is filed against and not opposed by you; if you are adjudicated a bankrupt or insolvent; if a bill in equity or other proceeding for the appointment of a receiver or other custodian for you or your business or assets is filed and consented to by you; if a receiver or other custodian (permanent or temporary) of your assets or property, or any part thereof, is appointed by any court of competent jurisdiction; if proceedings for a composition with creditors under any state or federal law should be instituted by or against you; if a final judgment remains unsatisfied or of record for 30 days or longer (unless a *supersedeas* bond is filed); if you are dissolved; if execution is levied against your business or property; if suit to foreclose any lien or mortgage against the site of any of your Taco Pros Restaurants or equipment is instituted against you and not dismissed within 30 days; or if the real or personal property of any of your Taco Pros Restaurants shall be sold after levy thereupon by any sheriff, marshal or constable.

(h) If you, or any shareholder, member or principal, if you are corporation or limited liability company, or any of your affiliates cease to operate all of the Taco Pros Restaurants opened pursuant to the terms of this Agreement.

(i) Any default under this Agreement or of any obligation owed to us or our affiliates whether under this Agreement or under another agreement with us, such as a Franchise Agreement, or our affiliates, such as sublease, loan agreement or security interest, or any default under any agreement related to any of your Taco Pros Restaurants, such as a lease, a vendor agreement or subcontract, will be regarded as a default under this Agreement.

(j) If you make a material misrepresentation to any person or entity in connection with your rights under this Agreement or the nature of your affiliation with us.

8.2 Upon occurrence of any of the events stated in this Section 8.2, we may, without prejudice to any other rights or remedies contained in this Agreement or provided by law or equity, terminate this Agreement. Such termination shall be effective 30 days after written notice (or such other notice as may be required by applicable state law) is given by us to you of any of such events, if such defaults are not cured within such period:

(a) If you use the System or Marks, or any other names, marks, systems, insignia, symbols or rights which are our property, except pursuant to, and in accordance with, a valid and effective Franchise Agreement.

(b) If you, or persons controlling, controlled by or under common control with you, own, maintain, operate, engage in, or have any financial or beneficial interest in (including any interest in corporations, LLCs, partnerships trusts, unincorporated associations or joint ventures), advise, assist, consult, make loans to, or lease or sublease to, anywhere in the world, any business which sells, for on- or off-premises consumption, Mexican dishes or vegetarian and non-vegetarian Mexican style food (a “Competitive Business”) other than pursuant to a valid and effective Taco Pros Restaurant Franchise Agreement.

(c) If you fail to remit to us any payments pursuant to Section 2 of this Agreement when the same are due.

(d) If you begin work on any Taco Pros Restaurant at any site unless all the conditions stated in Section 3 of this Agreement have been met.

(e) If you fail to obtain our prior written approval or consent, including but not limited to site approval or site plan approval, as expressly required by this Agreement.

(f) If you default in the performance of any other monetary or any other obligation under this Agreement.

(g) If you open any Taco Pros Restaurant for business before a Franchise Agreement for such Taco Pros Restaurant has been fully executed and the initial franchise fee due to us has been paid.

8.3 In the event you fail to timely meet your obligations under the Minimum Performance Schedule, at our election we shall permit you to retain your Development Rights for the remainder of the Term; provided, however, we and our affiliates shall have the unlimited right to develop and operate, and to grant to others development rights and franchises to develop and operate, Taco Pros Restaurants, and sell and distribute products and/or services within the Development Area, but not within any Protected Territory granted to you pursuant to any Franchise Agreement between you and us.

## **SECTION 9**

### **OBLIGATIONS FOLLOWING TERMINATION**

9.1 Upon termination of this Agreement becoming effective for any reason, or upon expiration of the term of this Agreement, you must immediately: (a) cease any attempts to select sites on which to establish Taco Pros Restaurants and (b) cease holding yourself out in any way as an area developer of ours or to do anything which would indicate such a relationship between you and us.

9.2 No right or remedy herein conferred upon or reserved to us is exclusive of any other right or remedy provided or permitted by law or in equity.

## **SECTION 10**

### **TRANSFER OF INTEREST**

10.1 This Agreement is personal to you and you shall neither sell, assign, transfer nor encumber this Agreement, the Development Rights, nor any other interest under this Agreement, nor suffer or permit any such assignment, transfer or encumbrance to occur directly, indirectly or contingently by agreement or by operation of law without our prior written consent. You understand that this Agreement may not be pledged, mortgaged, hypothecated, given as security for an obligation or in any manner encumbered. The attempted assignment or transfer of any interest, except in accordance with this Section 10 shall constitute a breach of this Agreement.

10.2 In the event that you are a corporation or a limited liability company or you desire to conduct business in a corporate capacity, said corporate entity or assignment to a corporate entity (which may include a corporation, limited liability company or partnership) must receive our prior written approval and you agree to comply with the provisions hereinafter specified, including, without limitation, personal guaranties by your equity owners of all of the obligations of said corporate entity or assignee corporate entity to us and other parties designated by us. The corporate entity or assignee corporate entity shall not engage in any business activities other than those directly related to the operation of the Taco Pros Restaurants pursuant to the terms and conditions of the Franchise Agreements with us, and all assets related to the operation of the Taco Pros Restaurants shall be held by the corporate entity or assignee corporate entity. There will be no transfer fee charged by us for a one-time assignment to a corporate entity.

10.3 If you are a corporation or if you assign your rights under this Agreement to a corporate entity, you or those individuals disclosed on Exhibit B attached hereto shall be the legal and beneficial owner of not less than 51% of the outstanding equity of said entity and shall act as such entity's principal officer. The assignment to a corporate entity will not relieve you of personal liability to us for performance of any of the obligations under this Agreement. Any subsequent transfer of voting rights of the equity of the entity or assignee entity, and any transfer or issuance of equity of the entity or assignee entity shall be subject to our prior written approval. We agree that we will not unreasonably restrict the issuance or transfer of equity, provided that you comply with the provisions of Section 10, and provided that in no event shall any equity of such corporate entity or assignee corporate entity be sold, transferred or assigned to a business competitor of ours. The articles of organization and governing documents (including by-laws, operating agreement or partnership agreement) of the entity or assignee entity shall reflect that the issuance and transfer of equity is restricted, and all certificates shall bear the following legend, which shall be printed legibly and conspicuously on each certificate:

**“The transfer of this certificate is subject to the terms and conditions of an Area Development Agreement with Taco Pros International LLC dated \_\_\_\_\_, 20\_\_.**

**Reference is made to said Area Development Agreement and related Franchise Agreements and to restrictive provisions of the governing documents of this entity.”**

10.4 The entity or assignee entity’s records shall indicate that a stop transfer order shall be in effect against the transfer of any equity, except for transfers permitted by this Section 10. In addition to the foregoing, the equity of such entity or assignee entity shall not be publicly sold or traded.

10.5 In the event of your death, disability or permanent incapacity, we shall consent to the transfer of all of the interest of you to your spouse, heirs or relatives, by blood or marriage, or if this Agreement was originally executed by more than one party, then to the remaining party(ies) who originally executed this Agreement, whether such transfer is made by your Last Will and Testament or by operation of law, provided that the requirements of Section 10 of this Agreement have been met. In the event that your spouse, heirs or relatives do not obtain our consent as prescribed herein, your personal representative shall have a reasonable time to dispose of your interest under this Agreement, which disposition shall be subject to all the terms and conditions for transfers under this Agreement.

10.6 You have represented to us that you are entering into this Area Development Agreement with the intention of complying with its terms and conditions and not for the purpose of resale of the Development Rights under this Agreement. Therefore, you agree that any attempt to assign this Agreement, prior to the time that at least 40% of the Taco Pros Restaurant(s) to be constructed under this Agreement are opened or under construction, except pursuant to Sections 10.2 and 10.3 of this Agreement, shall be deemed to be an event of default.

10.7 Except as provided in Section 10.6, if you receive and desire to accept a bona fide written offer from an unaffiliated third party to purchase your Development Rights or any interest under this Agreement, we shall have the option, exercisable within 30 days after receipt of written notice setting forth the name and address of the prospective purchaser, the price and terms of such offer, and a copy of such offer and the other information stated in this Section 10.7, to purchase the, Development Rights or interest, including your right to develop sites within the Development Area, on the same terms and conditions as offered by said third party. So that we may have information sufficient to enable us to determine whether to exercise this option, we may require you to deliver to us certified financial statements as of the end of your most recent fiscal year and such other information about your business and operations as we may request. If we decline, or do not accept the offer in writing within 30 days, you may, within 30 days from the expiration of the option period, sell, assign and transfer your business, Development Rights and interest to said third party, provided we have consented to such transfer as required by this Section 10. Any material change in the terms of the offer prior to closing of the sale to such third party shall constitute a new offer, subject to the same rights of first refusal by us or our nominee, as in the case of an initial offer. Our failure to exercise the option afforded by this Section 10.7 shall not constitute a waiver of any other provision of this Agreement, including all of the requirements of this Section 10 with respect to the proposed transfer.

10.8 You acknowledge and agree that the restrictions on transfer imposed in this Agreement are reasonable and are necessary to protect the Development Rights, the System and the Marks, as well as our reputation and image, and are for the protection of us, you and other area developers and franchisees. Any assignment or transfer permitted by this Section 10 shall not be effective until we receive completely executed copies of all transfer documents, and we consent in writing thereto.

10.9 Except as provided in Section 10.6 of this Agreement, we agree not to unreasonably withhold our consent to a sale, assignment or transfer by you under this Agreement. Consent to such transfer otherwise permitted or permissible as reasonable may be refused unless:

(a) All of your obligations created by this Agreement, all other franchise documents, including all Franchise Agreements, and the relationship created under this Agreement are assumed by the transferee.

(b) All ascertained or liquidated debts of you to us or our affiliated or subsidiary companies are paid.

(c) You are not in default under this Agreement or any other agreement with us.

(d) We are reasonably satisfied that the transferee meets all of our requirements for new area developers, including but not limited to, good reputation and character, business acumen, operational ability, management skills, financial strength and other business considerations.

(e) The transferee executes or, in appropriate circumstances, causes all necessary parties to execute, our then-standard form of Area Development Agreement, Franchise Agreements for all Taco Pros Restaurants open or under construction under this Agreement, and such other then-current ancillary agreements being required by us of new area developers on the date of transfer.

(f) You execute a general release, in a form satisfactory to us, of any and all claims against us, our officers, directors, employees and principal stockholders of any and all claims and causes of action that you may have against us or any subsidiary or affiliated corporations in any way relating to this Agreement or the performance or non-performance of this Agreement by us.

(g) You or your transferee pay to us a transfer fee in an amount equal to 50% of our then-current franchise fee to cover our reasonable costs in effecting the transfer and in providing initial assistance to your transferee.

10.10 Unless transferred pursuant to Section 10.5 upon the death or mental incapacity of any person with an interest of 50% or more in this Agreement or in you, the executor, administrator or personal representative of such person shall transfer his interest to a third party approved by us within 12 months. Such transfers, including, without limitation, transfers by devise or inheritance, shall be subject to the same conditions as any *inter vivos* transfer. However, in the case of transfer by devise or inheritance, if the heirs or beneficiaries of any such person are unable to meet the conditions stated in Section 10.1 of this Agreement, the personal representative of the deceased shall have a reasonable time, not to exceed 12 months from the date said personal representative is appointed, to dispose of the deceased's interest in you or in the Development Rights, which disposition shall be subject to all the terms and conditions for transfers contained in this Agreement. It is understood and agreed, however, that notwithstanding the foregoing, the Minimum Performance Schedule shall be complied with as though no such death or mental incapacity had occurred. In the event the interest described above is not disposed of within such time, we shall have the right to terminate this Agreement, provided such termination had not previously occurred for failure to perform pursuant to the Minimum Performance Schedule, upon 90 days' notice to your representative.

10.11 Our consent to a transfer of any interest in you or in the Development Rights pursuant to this Section shall not constitute a waiver of any claims we may have against the transferring party, nor shall it be deemed a waiver of our right to demand exact compliance with any of the terms of this Agreement by the transferee.

10.12 We have the right to assign this Agreement and all of our attendant rights and privileges to any person, firm, corporation or other entity.

10.13 You expressly affirm and agree that we may sell our assets, our rights to the Marks or to the System outright to a third party; may go public; may engage in a private placement of some or all of our securities; may merge with, acquire other corporations, or be acquired by another corporation; may undertake a refinancing, recapitalization, leveraged buyout or other economic or financial restructuring; and, with regard to any or all of the above sales, assignments and dispositions, you expressly and specifically waive any claims, demands or damages arising from or related to the loss of the Marks (or any variation of this Agreement) and/or the loss of association with or identification of “Taco Pros International LLC” as franchisor. Nothing contained in this Agreement shall require us to remain in the restaurant business or to offer the same products and services, whether or not bearing the Marks, in the event that we exercise our right to assign our rights in this Agreement.

## **SECTION 11** **COVENANTS**

11.1 You and your shareholders, officers, directors, managers and general partners (your “Owners”) acknowledge that each will receive valuable training, trade secrets and confidential information, including without limitation, information regarding the operational, sales, promotional and marketing methods and techniques of us and the System which are beyond the present skills and experience of you, your Owners and your managers and employees. You and your Owners acknowledge that such specialized training, trade secrets and confidential information provide a competitive advantage and will be valuable to them in the development and operation of your Taco Pros Restaurants, and that gaining access to such specialized training, trade secrets and confidential information is, therefore, a primary reason why they are entering into this Agreement. In consideration for such specialized training, trade secrets and confidential information (including, without limitation, information regarding the operational, sales, promotional and marketing methods and techniques of us and the System which are beyond the present skills and experience of you, your Owners and your managers and employees), during the Term of this Agreement, neither you nor any of your Owners shall, either directly or indirectly, for themselves or through, on behalf of or in conjunction with any person, partnership or corporation anywhere in the world:

(a) Divert, or attempt to divert, any business or customer of your Taco Pros Restaurant or a customer of any other Taco Pros Restaurant to any Competitive Business, by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the System.

(b) Own, maintain, operate, engage in, or have any financial or beneficial interest in (including any interest in corporations, LLCs, partnerships, trusts, unincorporated associations or joint ventures), advise, assist, consult, make loans to, or lease or sublease to, any business which sells, for on- or off-premises consumption or carry-out or delivery, Mexican dishes or vegetarian and non-vegetarian Mexican style food, wherever located.

11.2 You covenant that, except as otherwise approved in writing by us, you shall not, for a continuous and uninterrupted period commencing upon the expiration or termination of this Agreement, and continuing for 2 years thereafter (and, in case of any violation of this covenant, for 2 years after the violation ceases), either directly or indirectly, for yourself, or through, on behalf of or in conjunction with any person, persons, partnership or corporation, own, maintain, operate, engage in, or have any financial or beneficial interest in (including any interest in corporations, LLCs, partnerships, trusts, unincorporated associations or joint ventures), advise, assist, consult, make loans to, or lease or sublease to any Competitive Business which is located (i) within the Development Area; and/or (ii) within 20 miles of any Taco Pros Restaurant in the System.

11.3 Subsections 11.1 and 11.2 of this Section shall not apply to ownership by you of less than a 5% beneficial interest in the outstanding equity securities of any corporation which is registered under the Securities Exchange Act of 1934.

11.4 We and you agree that each of the foregoing covenants shall be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant in this Section 11 is held unreasonable or unenforceable by a court or agency having valid jurisdiction in any unappealed final decision to which we are a party, you expressly agree to be bound by any lesser covenant subsumed within the terms of such covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated in and made a part of this Section 11.

11.5 You expressly agree that the existence of any claim you may have against us, whether or not arising from this Agreement, shall not constitute a defense to our enforcement of the covenants in this Section 11.

11.6 You acknowledge that any failure to comply with the requirements of this Section 11 would cause us irreparable injury for which no adequate remedy at law may be available, and you hereby accordingly consent to our seeking injunctive relief prohibiting any conduct by you in violation of the terms of this Section 11. We may further avail ourselves of any other legal or equitable rights and remedies which we may have under this Agreement or otherwise.

11.7 At our request, you shall require and obtain the execution of covenants similar to those described in this Section 11 (including covenants applicable upon the termination of a person's relationship with you) from any or all of (a) all Taco Pros Restaurant managers of yours who have received training from us; and (b) all shareholders, officers, directors, members, managers and general partners. Each covenant required by this Section 11.7 shall be in a form satisfactory to us, including, without limitation, specific identification of us as a third-party beneficiary of such covenants with the independent right to enforce them. Your failure to obtain execution of a covenant required by this Section 11.7 shall constitute a default under Section 8 of this Agreement.

11.8 During the term of this Agreement, an officer or agent of ours shall have the right to inspect any Taco Pros Restaurant in which you have an interest at reasonable times and during normal business hours to the extent reasonably necessary to determine whether the conditions of this Section 11 are being satisfied. If, by reason of such inspections or otherwise, we have reason to believe that you are not in full compliance with the terms of this Section 11, we shall give notice of such default to you, specifying the nature of such default. If you deny that you are in default under this Agreement, as specified by us, you shall have the burden of establishing that such default does not exist and shall give notice to us of your position within 10 days of receipt of the notice from us. Unless you so deny such default, you shall immediately take all steps to cure said default in a manner satisfactory to us.

## **SECTION 12**

### **NOTICES**

12.1 Any and all notices required or permitted under this Agreement (“**Notices**”) shall be in writing and shall be personally delivered or sent by certified mail, return receipt requested, first class postage prepaid, or sent by FedEx or another nationally recognized overnight carrier to the respective parties at the following addresses unless and until a different address has been designated by written notice to the other party:

Notices to us:

Taco Pros International LLC  
2200 Stonington Ave, Suite 260  
Hoffman Estates, Illinois 60169-2067  
Attn: Mr. Bhagyesh Patel

With a copy to:

Marcus & Boxerman  
20 N. Clark Street, Suite 3300  
Chicago, Illinois 60602  
Attn: Michael Boxerman

Notices to you:

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

12.2 Any notice shall be deemed to have been given at the time of personal delivery or, in the case of certified mail, 3 business days after the date and time of mailing or, in the case of overnight delivery service, 1 business day after the date and time of mailing.

### **SECTION 13**

#### **INDEPENDENT CONTRACTOR AND INDEMNIFICATION**

13.1 It is understood and agreed by the parties hereto that this Agreement does not create a fiduciary relationship between them, and that nothing in this Agreement is intended to constitute either party an agent, legal representative, subsidiary, joint venturer, partner, employee or servant of the other for any purpose whatsoever. Each party to this Agreement is an independent contractor, and neither shall be responsible for the debts or liabilities incurred by the other.

13.2 You shall hold yourself out to the public to be an independent contractor operating pursuant to this Agreement. You agree to take such actions as shall be necessary to that end.

13.3 You understand and agree that nothing in this Agreement authorizes you to make any contract, agreement, warranty or representation on our behalf, or to incur any debt or other obligation in our name, and that we assume no liability for, nor shall be deemed liable by reason of, any act or omission of yours or any claim or judgment arising therefrom. You shall indemnify and hold us and our officers, directors, and employees harmless against any and all such claims arising directly or indirectly from, as a result of, or in connection with your activities under this Agreement, as well as the cost, including reasonable attorneys' fees, of defending against them, except that the foregoing shall not apply to infringement actions regarding the Marks which are caused solely by our actions or actions caused by the negligent acts of us or our agents.

### **SECTION 14**

#### **APPROVALS**

14.1 Whenever this Agreement requires our prior approval or consent, you shall make a timely written request to us for such approval or consent, and, except as otherwise provided herein, any approval or consent granted shall be in writing.

14.2 We make no warranties or guaranties upon which you may rely and assume no liability or obligation to you or any third party to which we would not otherwise be subject, by providing any waiver,



approval, advice, consent or services to you in connection with this Agreement, or by reason of any neglect, delay or denial of any request therefor.

## **SECTION 15**

### **NON-WAIVER**

15.1 No failure of ours to exercise any power reserved to us under this Agreement or to insist upon compliance by you with any obligation or condition in this Agreement, or any similar agreement with another franchisee, or any breach or default by you, or by any other franchisee, of any of the terms, provisions, or covenants thereof, and no custom or practice of the parties at variance with the terms of this Agreement, shall constitute a waiver of our rights to demand exact compliance with the terms of this Agreement. Our waiver of any particular default shall not affect or impair our right with respect to any subsequent default of the same or of a different nature; nor shall any delay, forbearance or omission of ours to exercise any power or right arising out of any breach or default by you of any of the terms, provisions or covenants of this Agreement affect or impair our rights, nor shall such constitute a waiver by us of any rights under this Agreement or rights to declare any subsequent breach or default.

## **SECTION 16**

### **SEVERABILITY AND CONSTRUCTION**

16.1 Each covenant and provision of this Agreement shall be construed as independent of any other covenant or provision of this Agreement. The provisions of this Agreement shall be deemed severable.

16.2 If all or any portion of a covenant or provision of this Agreement is held unreasonable or unenforceable by a court or agency having valid jurisdiction in a decision to which we are a party, you expressly agree to be bound by any lesser covenant or provision imposing the maximum duty permitted by law which is subsumed within the terms of such covenant or provision, as if that lesser covenant or provision were separately stated in and made a part of this Agreement.

16.3 Nothing in this Agreement shall confer upon any person or legal entity other than us or you, and such of our respective successors and assigns as may be contemplated by Section 10 of this Agreement, any rights or remedies under or by reason of this Agreement.

16.4 All captions in this Agreement are intended solely for the convenience of the parties and none shall be deemed to affect the meaning or construction of any provision of this Agreement.

16.5 All references herein to gender and number shall be construed to include such other gender and number as the context may require, and all acknowledgments, promises, covenants, agreements and obligations herein made or undertaken by you shall be deemed jointly and severally undertaken by all those executing this Agreement on your behalf.

16.6 This Agreement may be executed in triplicate, or such other number as is required, and each copy of the executed Agreement shall be deemed an original.

## **SECTION 17**

### **ENTIRE AGREEMENT**

17.1 This Agreement, the documents referred to herein and the Exhibits attached to this Agreement constitute the entire, full and complete agreement between us and you concerning the subject

matter of this Agreement and supersede any and all prior agreements; provided, however, that nothing in this or any related agreement is intended to disclaim the representations made by us in the Disclosure Document that was furnished to you by us. No amendment, change or variance from this Agreement shall be binding on either party unless mutually agreed to by the parties and executed by their authorized officers or agents in writing.

## **SECTION 18**

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

18.1 Except as otherwise provided in this Section 18, prior to initiating any proceeding to resolve any dispute based upon, arising out of, or in any way connected with this Agreement, a party must submit the dispute for mediation. The mediation will be held before one mediator selected by the parties, and if the parties cannot agree upon the mediator, then a mediator selected by the American Arbitration Association (“AAA”). All parties must attend and participate in the mediation. The mediation shall be governed by the commercial mediation rules of the AAA, shall be held in Chicago, Illinois, and shall not last more than one day. The obligation to mediate shall not be binding upon either party with respect to claims relating to the Marks, the non-payment or underpayment of any fees payable by you under this Agreement, the noncompetition covenants, or requests by either party for temporary restraining orders, preliminary injunctions or other procedures in a court of competent jurisdiction to obtain interim relief when deemed necessary by such court to preserve the status quo or prevent irreparable injury pending resolution of the actual dispute. If we and you do not resolve a dispute by mediation, then any party may thereafter file for litigation or arbitration, as applicable, in accordance with the terms of this Agreement.

18.2 Except for claims relating to the Marks, the non-payment or underpayment of any fees payable by you under this Agreement, the noncompetition covenants, or requests by either party for temporary restraining orders, preliminary injunctions or other procedures in a court of competent jurisdiction to obtain interim relief when deemed necessary by such court to preserve the status quo or prevent irreparable injury pending resolution of the actual dispute, all controversies, disputes or claims between you and your affiliates, and their respective owners, officers, directors, agents, employees and attorneys, and us, and any of our affiliates, and their respective owners, officers, directors, agents, employees and attorneys, arising out of or relating in any way to this Agreement or any other agreement between the parties; the parties’ rights and obligations under this Agreement; our relationship or the obligations by and between the parties; or the validity of this Agreement or any other agreement between you and us or any provision of such agreements, must be submitted to binding arbitration administered by the AAA in accordance with the AAA’s then-current Commercial Arbitration Rules. The arbitration hearing shall take place in Chicago, Illinois, before a single arbitrator. Any party who fails or refuses to submit any dispute to binding arbitration following a lawful demand by the opposing party shall bear all costs and expenses incurred by the opposing party in compelling arbitration.

18.3 Any arbitration must be on an individual basis and the parties and the arbitrator will have no authority or power to proceed with any claim as a class action, associational claim, or otherwise to join or consolidate any claim with any other claim or any other proceeding involving third parties. The arbitrator shall have the right to award or include in the award any relief which he or she deems proper in the circumstances including but not limited to money damages (with interest on unpaid amounts from the date due), specific performance and attorneys’ fees and costs, in accordance with this Agreement. THE FOREGOING TO THE CONTRARY NOTWITHSTANDING, THE ARBITRATOR SHALL NOT BE EMPOWERED TO AWARD CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES. THE PARTIES (AND THEIR OWNERS AND GUARANTORS, IF APPLICABLE) WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO OR CLAIM FOR ANY PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES AGAINST THE OTHER AND AGREE THAT IN

A DISPUTE BETWEEN THEM EACH SHALL BE LIMITED TO THE RECOVERY OF ANY ACTUAL DAMAGES SUSTAINED BY IT. The award and decision of the arbitrator shall be conclusive and binding upon all parties to this Agreement and judgment upon the award may be entered in any court of competent jurisdiction. You and we agree that, in connection with any arbitration proceeding, each shall file any compulsory counterclaim (as defined by Rule 13 of the Federal Rules of Civil Procedure) within 30 days after the date of the filing of the claim to which it relates.

18.4 No right or remedy conferred upon or reserved to any party to this Agreement is intended to be, nor shall be deemed, exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy.

18.5 ALL PARTIES TO THIS AGREEMENT IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM, WHETHER AT LAW OR IN EQUITY, BROUGHT BY EITHER OF THEM AGAINST THE OTHER, WHETHER OR NOT THERE ARE OTHER PARTIES IN SUCH ACTION OR PROCEEDING. ANY AND ALL CLAIMS AND ACTIONS ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE RELATIONSHIP BETWEEN AND AMONG THEM OR YOUR OPERATION OF AN TACO PROS RESTAURANT, BROUGHT BY ANY PARTY HERETO AGAINST THE OTHER, SHALL BE COMMENCED WITHIN 2 YEARS FROM THE OCCURRENCE OF THE FACTS GIVING RISE TO SUCH CLAIM OR ACTION, OR SUCH CLAIM OR ACTION SHALL BE BARRED. All parties waive to the fullest extent permitted by law any right to or claim of any punitive, exemplary, or consequential damages against the other and agree that in the event of a dispute between them each shall be limited to the recovery of any actual damages sustained by it.

## **SECTION 19**

### **TIMELY PERFORMANCE**

19.1 You hereby acknowledge that your timely development of the Taco Pros Restaurants in the Development Area in accordance with the Minimum Performance Schedule is of material importance to us and you. You agree, as a condition of the continuance of the rights granted under this Agreement, to develop and open Taco Pros Restaurants within the Development Area in accordance with the Minimum Performance Schedule, to operate such Taco Pros Restaurants pursuant to the terms of the Franchise Agreements and to maintain all such Taco Pros Restaurants in operation continuously. We agree to diligently act upon any request for approval from you and any material delay in your ability to meet the Minimum Performance Schedule which is directly caused by our failure to act diligently upon a request for approval shall not constitute a default under this Agreement. Further, a failure or delay in performance by any party to this Agreement shall not be a default under this Agreement if such failure or delay arises out of or results from a Force Majeure, which for purposes of this Agreement shall be defined as fire, flood, earthquake or other natural disasters, or acts of a public enemy, war, rebellion or sabotage.

## **SECTION 20**

### **ACKNOWLEDGMENTS**

20.1 YOU ACKNOWLEDGE THAT THE SUCCESS OF THE BUSINESS VENTURE CONTEMPLATED BY THIS AGREEMENT INVOLVES SUBSTANTIAL BUSINESS RISKS AND WILL BE TOTALLY AND COMPLETELY DEPENDENT UPON YOUR ABILITY AS AN INDEPENDENT BUSINESS PERSON. WE EXPRESSLY DISCLAIM THE MAKING OF, AND YOU ACKNOWLEDGE NOT HAVING RECEIVED, ANY WARRANTY OR GUARANTY, EXPRESS OR IMPLIED, AS TO THE POTENTIAL VOLUME, PROFITS OR SUCCESS OF THE BUSINESS VENTURE CONTEMPLATED BY THIS AGREEMENT.

20.2 YOU ACKNOWLEDGE HAVING RECEIVED, READ AND UNDERSTOOD THIS AGREEMENT, THE EXHIBITS ATTACHED HERETO AND AGREEMENTS RELATING HERETO, IF ANY, AND THE DISCLOSURE DOCUMENT DELIVERED SIMULTANEOUSLY HERewith; AND WE HAVE ACCORDED YOU AMPLE TIME AND OPPORTUNITY TO CONSULT WITH ADVISORS OF YOUR OWN CHOOSING ABOUT THE POTENTIAL RISKS OF ENTERING INTO THIS AGREEMENT.

20.3 YOU AND EACH OF YOUR PRINCIPALS, IF AN ENTITY, EXPRESSLY ACKNOWLEDGE THAT NEITHER YOU NOR THEY HAVE RELIED UPON ANY EARNINGS CLAIMS, SUCH AS ORAL OR WRITTEN STATEMENTS OR SUGGESTIONS, MADE BY ANY REPRESENTATIVE OF OR ANY OTHER PERSON PURPORTING TO BE ACTING ON OUR BEHALF REGARDING THE POTENTIAL FUTURE SALES, REVENUES OR PROFITS WHICH MAY BE DERIVED FROM OPERATION OF TACO PROS RESTAURANTS OR DEVELOPMENT OF THE DEVELOPMENT AREA.

**SECTION 21**  
**EFFECTIVE DATE**

This Agreement shall be effective as of the date it is executed by us.

**[SIGNATURES FOLLOW]**

**IN WITNESS WHEREOF**, the parties hereto have duly executed, sealed and delivered this Agreement in on the day and year written below.

**FRANCHISOR:**

TACO PROS INTERNATIONAL LLC

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

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

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

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

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, Secretary

**AREA DEVELOPER**

\_\_\_\_\_

ATTEST/WITNESS:

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

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

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

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

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

**TACO PROS INTERNATIONAL LLC**

**AREA DEVELOPMENT AGREEMENT**

**EXHIBIT A**

**MINIMUM PERFORMANCE SCHEDULE**

The Agreement authorizes and obliges Area Developer to establish and operate \_\_\_\_\_  
Taco Pros Restaurants pursuant to a Franchise Agreement for each Taco Pros Restaurant. The following  
is Area Developer's Minimum Performance Schedule:

**Restaurant Number**

**To Be Opened and Operating By:**

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**FRANCHISOR:**

**AREA DEVELOPER**

TACO PROS INTERNATIONAL LLC

\_\_\_\_\_

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

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

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

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

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

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

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

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

**TACO PROS INTERNATIONAL LLC**  
**AREA DEVELOPMENT AGREEMENT**  
**EXHIBIT B**

**DEVELOPMENT AREA**

The following constitutes the Development Area(s) within which Area Developer may locate Taco Pros Restaurants under this Agreement:

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, Secretary

ATTEST/WITNESS:

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

**FRANCHISOR:**

TACO PROS INTERNATIONAL LLC

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

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

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

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

**AREA DEVELOPER**

\_\_\_\_\_

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

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

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

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

**TACO PROS INTERNATIONAL LLC  
AREA DEVELOPMENT AGREEMENT**

**EXHIBIT C  
CERTIFICATION BY AREA DEVELOPER**

The undersigned, being all of the owners of a direct or interest in \_\_\_\_\_  
a(n) \_\_\_\_\_, does hereby certify that he/she has conducted an independent investigation of the business contemplated by this Area Development Agreement and the Taco Pros International LLC Franchise Agreement, and that the decision to execute the Area Development Agreement was based entirely upon the independent investigation by the undersigned; and the undersigned further certifies that he/she has not relied upon, in any way, any claims regarding potential sales, income, or earnings to be derived from the business contemplated by the Franchise Agreement and Area Development Agreement. The undersigned further certifies that he/she understands the risks involved in this investment and Taco Pros International LLC makes no representation or guaranty, explicit or implied, that the Area Developer will be successful or will recoup his investment.

**IN WITNESS WHEREOF**, the undersigned have executed this Certification by Area Developer on the day and year above written.

**WITNESS:**

**OWNER(S):**

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

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

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

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

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

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

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

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



**TACO PROS INTERNATIONAL LLC  
AREA DEVELOPMENT AGREEMENT**

**EXHIBIT D  
GUARANTY**

(To be executed only if Area Developer of Corporation, LLC or Partnership)

In consideration of the execution by Taco Pros International LLC of the annexed Area Development Agreement, and acknowledging that undersigned will benefit directly or indirectly from the execution of this Agreement, the undersigned, being all of the shareholders, directors, and officers of the Area Developer, agree to be jointly and severally bound by and agree to guaranty the performance of all of the terms and conditions of the Area Development Agreement and any amendments thereto or renewals of this Agreement, and do hereby execute this Area Development Agreement for the purpose of binding and obligating themselves to the terms and conditions of the aforesaid Area Development Agreement and any amendments thereto or renewals of this Agreement.

The guarantors under this Agreement hereby waive notice of termination or default under the Area Development Agreement.

**IN WITNESS WHEREOF**, the undersigned have executed this Guaranty on the day and year above written.

**WITNESS:**

**OWNER(S):**

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

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

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

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

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

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

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

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

# **TACO PROS INTERNATIONAL LLC AREA DEVELOPMENT AGREEMENT**

## **EXHIBIT E**

### **TRANSFER OF A FRANCHISE TO A CORPORATION OR LIMITED LIABILITY COMPANY**

This Transfer Agreement shall amend that certain Area Development Agreement between \_\_\_\_\_ (“Area Developer”), and Taco Pros International LLC (“Franchisor”).

The undersigned, an Officer, Director and Owner of a majority of the issued and outstanding voting stock of the Corporation set forth below, or Members of the issued and outstanding Interests of the Limited Liability Company set forth below, and the Area Developer of the Taco Pros Restaurants under an Area Development Agreement executed on the date set forth below, between himself or herself and Franchisor, granting him/her a franchise to operate in the Development Area set forth below, and the other undersigned Directors, Officers and Shareholders of the Corporation, or the Members of the Limited Liability Company, who together with Area Developer constitute all of the Shareholders of the Corporation, or the Members of the Limited Liability Company, in order to induce Franchisor to consent to the assignment of the Area Development Agreement to the Corporation or Limited Liability Company in accordance with the provisions of Section 11 of the Area Development Agreement, agree as follows:

1. The undersigned Area Developer shall remain personally liable in all respects under the Area Development Agreement and all the other undersigned Officers, Directors and Shareholders of the Corporation, or the Members of the Limited Liability Company, intending to be legally bound hereby, agree jointly and severally to be personally bound by the provisions of the Area Development Agreement including the restrictive covenants contained in Section 12 of this Agreement, to the same extent as if each of them were the Area Developer set forth in the Area Development Agreement and they jointly and severally personally guarantee all of the Area Developer’s obligations set forth in said Agreement.

2. The undersigned agree not to transfer any stock in the Corporation, or any interest in the Limited Liability Company without the prior written approval of the Franchisor and agree that all stock certificates representing shares in the Corporation, or all certificates representing interests in the Limited Liability Company shall bear the following legend:

“The shares of stock represented by this certificate are subject to the terms and conditions set forth in an Area Development Agreement dated \_\_\_\_\_ 20 \_\_\_\_\_ between \_\_\_\_\_ and Taco Pros International LLC”

or

“The ownership interests represented by this certificate are subject to the terms and conditions set forth in an Area Development Agreement dated \_\_\_\_\_, 20 \_\_\_\_ between \_\_\_\_\_ and Taco Pros International LLC”

3. \_\_\_\_\_ or his designee shall devote his best efforts to the day-to-day operation and development of the Taco Pros Restaurants.

4. \_\_\_\_\_ hereby agrees to become a party to and to be bound by all of the provisions of the Area Development Agreement executed on the date set forth below between Area Developer and Franchisor, to the same extent as if it were named as the Area Developer therein.

Date of Area Development Agreement: \_\_\_\_\_

Development Area for Taco Pros Restaurants: \_\_\_\_\_

**AREA DEVELOPER**

\_\_\_\_\_

ATTEST/WITNESS:

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

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

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

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

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

APPROVED:

**FRANCHISOR:**

TACO PROS INTERNATIONAL LLC

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

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

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

ATTEST:

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

\_\_\_\_\_  
\_\_\_\_\_, Secretary

**TACO PROS INTERNATIONAL LLC  
AREA DEVELOPMENT AGREEMENT**

**EXHIBIT F  
STATE SPECIFIC ADDENDUM**

## **EXHIBIT D**

### **LIST OF FRANCHISEES AND AREA DEVELOPERS**

1. 5959 W Diversy Ave  
Chicago, IL 60622  
(773) 377-6402

**EXHIBIT E**

**FRANCHISEES AND AREA DEVELOPERS WHO HAVE LEFT THE SYSTEM**

**None.**

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**EXHIBIT G**

**MULTI-STATE ADDENDUM**

**None.**

**EXHIBIT H**

**LIST OF STATE ADMINISTRATORS/AGENTS FOR SERVICE OF PROCESS**

## **LIST OF STATE ADMINISTRATORS/AGENTS FOR SERVICE OF PROCESS**

Listed here are the names, addresses and telephone numbers of the state agencies having responsibility for franchising disclosure/registration laws and for service of process. We may not yet be registered to sell franchises in any or all of these states.

If a state is not listed, Taco Pros International LLC has not appointed an agent for service of process in that state in connection with the requirements of franchise laws. There may be states in addition to those listed above in which Chicago Franchise Systems, Inc. has appointed an agent for service of process.

There may also be additional agents appointed in some of the states listed.

<b><u>CALIFORNIA</u></b>  California Corporations Commissioner Department of Corporations 320 West 4th Street, Suite 750 Los Angeles, CA 90013 (213) 576-7500 Toll Free (866) 275-2677  1515 K Street, Suite 200 Sacramento, CA 95814 (916) 445-7205  1350 Front Street San Diego, CA 92101 (619) 525-4233  One Sansome Street, Suite 600 San Francisco, CA 94104 (415) 972-8559	<b><u>CONNECTICUT</u></b>  State of Connecticut Department of Banking Securities & Business Investments Division 260 Constitution Plaza Hartford, CT 06103-1800 (860) 240-8230  Agent: Banking Commissioner
<b><u>HAWAII</u></b> (state administrator)  Business Registration Division Department of Commerce and Consumer Affairs 335 Merchant Street, Room 203 Honolulu, Hawaii 96813 (808) 586-2722  (agent for service of process) Commissioner of Securities State of Hawaii 335 Merchant Street Honolulu, Hawaii 96813 (808) 586-2722	<b><u>ILLINOIS</u></b>  Franchise Bureau Office of the Attorney General 500 South Second Street Springfield, Illinois 62706 (217) 782-4465



<p><b><u>INDIANA</u></b> (state administrator)</p> <p>Indiana Secretary of State Securities Division, E-111 302 Washington Street Indianapolis, Indiana 46204 (317) 232-6681</p> <p>(agent for service of process) Indiana Secretary of State 201 State House 200 West Washington Street Indianapolis, Indiana 46204 (317) 232-6531</p>	<p><b><u>MARYLAND</u></b> (state administrator)</p> <p>Office of the Attorney General Securities Division 200 St. Paul Place Baltimore, Maryland 21202-2021 (410) 576-6360</p> <p>(for service of process) Maryland Securities Commissioner 200 St. Paul Place Baltimore, Maryland 21202-2021 (410) 576-6360</p>
<p><b><u>MICHIGAN</u></b> (state administrator)</p> <p>Consumer Protection Division Antitrust and Franchise Unit Michigan Department of Attorney General 525 W. Ottawa Street, 6<sup>th</sup> Floor Lansing, Michigan 48933 (517) 373-7117</p> <p>(for service of process) Corporations Division Bureau of Commercial Services Department of Labor and Economic Growth P.O. Box 30054 Lansing, Michigan 48909</p>	<p><b><u>MINNESOTA</u></b> (state administrator)</p> <p>Minnesota Department of Commerce 85 7<sup>th</sup> Place East, Suite 500 St. Paul, Minnesota 55101-2198 (651) 296-6328</p> <p>(for service of process) Minnesota Commissioner of Commerce</p>
<p><b><u>OREGON</u></b></p> <p>Department of Insurance and Finance Corporate Securities Section Labor and Industries Building Salem, Oregon 97310 (503) 378-4387</p>	<p><b><u>RHODE ISLAND</u></b></p> <p>Securities Division Department of Business Regulation, Bldg. 69, First Floor John O. Pastore Center 1511 Pontiac Avenue Cranston, Rhode Island 02920 (401) 462-9582</p>

<p><b><u>NEW YORK</u></b> (state administrator)</p> <p>Attention: Barbara Lasoff Office of the New York State Attorney General Investor Protection Bureau Franchise Section 120 Broadway, 23<sup>rd</sup> Floor New York, New York 10271-0332 (212) 416-8236 Phone (212) 416-6042 Facsimile</p> <p>(for service of process) Attention: Uniform Commercial Code NY Department of State One Commerce Plaza 99 Washington Avenue, 6<sup>th</sup> Floor Albany, New York 12231-0001 (518) 473-2492</p>	<p><b><u>NORTH DAKOTA</u></b></p> <p>North Dakota Securities Department State Capitol, Fifth Floor, Dept. 414 600 East Boulevard Avenue Bismarck, North Dakota 58505 (701) 328-4712</p>
<p><b><u>SOUTH CAROLINA</u></b></p> <p>National Data Access Corp. 2 Office Park Court, Suite 103 Columbia, South Carolina 29223 (803) 699-6130</p>	
<p><b><u>SOUTH DAKOTA</u></b></p> <p>Department of Labor &amp; Regulation Division of Securities 124 S. Euclid, Suite 104 Pierre, South Dakota 57501 (605) 773-4823</p>	<p><b><u>VIRGINIA</u></b></p> <p>State Corporation Commission Division of Securities and Retail Franchising 1300 East Main Street, 9<sup>th</sup> Floor Richmond, Virginia 23219 (804) 371-9051</p> <p>(for service of process) Clerk of the State Corporation Commission 1300 East Main Street, 1<sup>st</sup> Floor Richmond, Virginia 23219 (804) 371-9733</p>

<p><b><u>WASHINGTON</u></b> (state administrator)</p> <p>Department of Financial Institutions Securities Division P.O. Box 9033 Olympia, Washington 98507-9033 (360) 902-8760</p> <p>(for service of process) Director, Department of Financial Institutions Securities Division 150 Israel Road S.W. Tumwater, Washington 98501</p>	<p><b><u>WISCONSIN</u></b> (state administrator)</p> <p>Division of Securities Department of Financial Institutions 345 W. Washington Ave., 4<sup>th</sup> Floor Madison, Wisconsin 53703 (608) 266-1064</p> <p>(for service of process) Administrator, Division of Securities Department of Financial Institutions 345 W. Washington Ave., 4<sup>th</sup> Floor Madison, Wisconsin 53703</p>
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**EXHIBIT I**

**SAMPLE WAIVER AND RELEASE OF CLAIMS**

## SAMPLE WAIVER AND RELEASE OF CLAIMS

THIS WAIVER AND RELEASE OF CLAIMS (this “**Release**”) is made as of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, a(n) \_\_\_\_\_ (“**Franchisee**”), and each individual holding an ownership interest in Franchisee (collectively with Franchisee, “**Releasor**”) in favor of TACO PROS INTERNATIONAL LLC, an Illinois limited liability company (“**Franchisor**,” and together with Releasor, the “**Parties**”).

### RECITALS

**WHEREAS**, Franchisor and Franchisee have entered into a Franchise Agreement dated \_\_\_\_\_ (the “**Agreement**”) pursuant to which Franchisee was granted the right to own and operate a Taco Pros Restaurant.

**WHEREAS**, Franchisee has notified Franchisor of its desire to {**transfer the Agreement and all rights related thereto, or an ownership interest in Franchisee, to a transferee/enter into a renewal franchise agreement/amend the Agreement/indicate other reason for the requirement of this waiver and release**} and Franchisor has consented to such.

**WHEREAS**, as a condition to Franchisor’s consent, Releasor has agreed to execute this Release upon the terms and conditions stated below.

**NOW THEREFORE**, in consideration of Franchisor’s consent, and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, and intending to be legally bound, Releasor hereby agrees as follows:

1. Recitals. The recitals to this Agreement are incorporated herein by reference.
2. Representations and Warranties. Releasor represents and warrants that it is duly authorized to enter into this Release and to perform the terms and obligations herein contained, and has not assigned, transferred or conveyed, either voluntarily or by operation of law, any of its rights or claims against Franchisor or any of the rights, claims or obligations being terminated and released hereunder. Each individual executing this Release on behalf of Franchisee represents and warrants that he/she is duly authorized to enter into and execute this Release on behalf of Franchisee. Releasor further represents and warrants that all individuals that currently hold a direct or indirect ownership interest in Franchisee are signatories to this Release.
3. Release. Releasor, individually and on behalf of its shareholders, officers, directors, members, managers, employees, agents, owned, controlled and affiliated companies, subsidiaries, affiliates, parents, divisions, successors and assigns and all persons or firms claiming by, through, under, or on behalf of any or all of them, hereby release, acquit and forever discharge Franchisor, any and all of Franchisor’s affiliates, parents, subsidiaries or related companies, divisions and partnerships, and its and their past and present shareholders, officers, directors, members, managers, agents, partners, employees, representatives, successors and assigns, and attorneys, and the spouses of such individuals (collectively, the “Released Parties”), from any and all claims, liabilities, damages, expenses, actions or causes of action which Releasor may now have or has ever had, whether known or unknown, past or present, absolute or contingent, suspected or unsuspected, of any nature whatsoever, including without limiting the generality of the foregoing, all claims, liabilities, damages, expenses, actions or causes of action directly or indirectly arising out of or relating to the execution and performance of the Agreement or any other agreement between Franchisee and Franchisor, and the offer and sale of the franchise related thereto.

Without limiting the generality of the foregoing, but by way of example only, this release shall apply to any and all state or federal antitrust claims or causes of action; franchise law claims; state or federal securities law claims or causes of action; state or federal RICO claims or causes of action; breach of contract claims or causes of action; claims or causes of action based on misrepresentation or fraud; breach of fiduciary duty; unfair trade practices (state or federal); and all other claims and causes of action whatsoever.

4. California Civil Code Section 1542. Releasor hereby expressly waives all rights it may have or may claim to have under Section 1542 of the Civil Code of the State of California, or any similar law of any state or territory of the United States of America. Section 1542 provides as follows:

“1542 General Release; Extent. A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which, if known by him, must have materially affected his settlement with the debtor.”

5. Non-Disparagement. Releasor expressly covenants and agrees not to make any false representation of facts, or to defame, disparage, discredit or deprecate any of the Released Parties or otherwise communicate with any person or entity in a manner intending to damage any of the Released Parties, their business or their reputation.

6. Miscellaneous.

(a) Releasor agrees that it has read and fully understands this Release and that the opportunity has been afforded to Releasor to discuss the terms and contents of said Release with legal counsel and/or that such a discussion with legal counsel has occurred.

(b) This Release shall be construed and governed by the laws of the State of Illinois.

(c) Each individual and entity that comprises Releasor shall be jointly and severally liable for the obligations of Releasor.

(d) In the event that it shall be necessary for any Party to institute legal action to enforce or for the breach of any of the terms and conditions or provisions of this Release, the prevailing Party in such action shall be entitled to recover all of its reasonable costs and attorneys' fees.

(e) All of the provisions of this Release shall be binding upon and inure to the benefit of the Parties and their current and future respective shareholders, directors, officers, members, managers, partners, attorneys, agents, employees and the spouses of such individuals, successors, affiliates, and assigns. No other party shall be a third-party beneficiary to this Release.

(f) This Release constitutes the entire agreement and, as such, supersedes all prior oral and written agreements or understandings between and among the Parties regarding the subject matter hereof. This Release may not be modified except in a writing signed by all of the Parties. This Release may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

(g) The Parties agree that the arbitration, injunctive relief, governing law, and jurisdiction provisions contained in the Franchise Agreement shall govern this Release and such provisions are incorporated into this Release by reference.

(h) If one or more of the provisions of this Release shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect or impair any other provision of this Release, but this Release shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

(i) The Parties agree to do such further acts and things and to execute and deliver such additional agreements and instruments as any Party may reasonably require to consummate, evidence or confirm the Release contained herein in the matter contemplated hereby.

**(Signature Page Follows)**

**IN WITNESS WHEREOF**, Releasor has executed this Release as of the date first written above.

**FRANCHISOR:**

TACO PROS INTERNATIONAL LLC

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

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

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

**FRANCHISEE:**

\_\_\_\_\_, a

\_\_\_\_\_

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

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

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

**FRANCHISEE'S OWNERS:**

\_\_\_\_\_

\_\_\_\_\_

Typed or Printed Name

**EXHIBIT J**

**COMPANY OWNED RESTAURANTS**

1. 2 Chicago Avenue Oak Park, IL 60302 Phone Number: (708) 613-5384
2. 833 W. Chicago Avenue Chicago, IL 60642 Phone Number: (312) 285-2992
3. 1959 W. Chicago Avenue Chicago, IL 60622 Phone Number: (312) 666-5941
4. 2200 W. Taylor St Chicago, IL 60612 Phone Number: (312) 877-5600
5. 6681 Grand Ave, Unit A-1 Gurnee, IL 60031 Phone Number: (224) 656-5607
6. 3029 N. Pulaski Rd Chicago, IL 60641 Phone Number: (773) 853-0559



**EXHIBIT K**

**INFORMATION ABOUT AREA REPRESENTATIVES**

None.

**EXHIBIT L**

**RECEIPTS**

**RECEIPT**  
**(Your Copy)**

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

If Taco Pros International, LLC offers you a franchise, it must provide this Franchise Disclosure Document to you 14 calendar-days before you sign a binding agreement with, or make a payment to, the franchisor, or an affiliate, in connection with the proposed franchise sale or grant.

Under Iowa or Rhode Island law, if applicable, we must provide this Franchise Disclosure Document to you at your first personal meeting to discuss the franchise. Michigan requires us to give you this Franchise Disclosure Document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first. New York requires you to receive this Franchise Disclosure Document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.

If Taco Pros International LLC does not deliver this Franchise Disclosure Document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the appropriate state agency identified on **Exhibit H**.

Taco Pros International LLC authorizes the parties identified on **Exhibit H** to receive service of process for Taco Pros International LLC in the particular state.

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

<input type="checkbox"/> Mr. Bhagyesh Patel 2200 Stonington Avenue, Suite #260 Hoffman Estates, Illinois 60169 (224) 653-9193	<input type="checkbox"/> Name of Franchise Seller: Principal Business Address: Telephone Number:
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Please identify the individual franchise seller who offered you a franchise in the space provided above.

Issuance Date: April 30, 2023

I received a Franchise Disclosure Document dated April 30, 2023 that included the following Exhibits:

- A. Financial Statements
- B. Franchise Agreement and State Addendum
- C. Area Development Agreement and State Addendum
- D. List of Franchisees and Area Developers
- E. Franchisees and Area Developers Who Have Left the System
- F. Confidential Operations Manual Table of Contents
- G. State Specific Addendum to the Disclosure Document
- H. List of State Administrators/Agents for Service of Process
- I. Sample Waiver and Release of Claims
- J. Company Owned Restaurants
- K. Receipts

Date	Signature	Printed Name
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Date	Signature	Printed Name
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Important: Please sign this copy of the receipt, date your signature, and return it to Taco Pros International, LLC, 2200 Stonington Avenue, Suite #260, Hoffman Estates, Illinois 60169.

**RECEIPT**  
**(Our Copy)**

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Date	Signature	Printed Name
Date	Signature	Printed Name

Please keep this copy for your records.