

## FRANCHISE DISCLOSURE DOCUMENT

### TMC FRANCHISE CORPORATION

an Arizona Corporation  
1130 West Warner Road  
Tempe, Arizona 85284  
(602) 728-8000  
www.kefranchise.com



This Disclosure Document describes the offer for the right to operate a retail convenience store under the “Kangaroo Express” trade name and service marks and the Kangaroo Express convenience store business system (the “Store”). This Disclosure Document also describes the offer for the right to operate a motor fuel business for the sale of (a) Kangaroo Express-sourced motor fuel under the “Kangaroo Express” trade name and service marks and the Kangaroo Express motor fuel business system (the “Motor Fuel Business”) and (b) third-party sourced motor fuel under the Kangaroo Express marks (the “Branded Business”). As of the date of this Disclosure Document, we will offer a Motor Fuel Business or Branded Business only to franchisees that already operate or agree to open and operate a Store.

The total investment necessary to begin operation of a Kangaroo Express convenience store franchise is from \$1,451,000 to \$2,722,150 for a newly constructed Kangaroo Express Store and \$296,000 to \$1,430,150 if you are converting an existing convenience store to a Kangaroo Express Store. This includes \$12,500 to \$13,500 that must be paid to us or our affiliates whether you open a newly constructed Kangaroo Express Store or convert an existing convenience store to a Kangaroo Express Store. If you purchase an existing company-operated Kangaroo Express Store from us, the amount you will pay to us is difficult to estimate based on real estate costs as well as the ancillary businesses usually associated with a convenience store and varies depending on the purchase price we negotiate.

The total investment necessary to begin operations of a Branded Business is from \$8,150 to \$119,150. Of this amount, there are not any fees paid to us or an affiliate. The total investment necessary to begin operations of a newly constructed or rebuilt Motor Fuel Business is from \$1,999,150 to \$5,617,150. The total investment decreases to \$549,150 to \$2,112,150 if you are converting an existing forecourt to a Motor Fuel Business. This includes \$20,000 to \$50,000 that must be paid to us or our affiliates. The total investment noted in this paragraph for a Branded Business or Motor Fuel Business is in addition to the total investment necessary to begin operations of the Kangaroo Express convenience store franchise.

In addition, we grant to certain qualified persons the right to own and operate multiple Kangaroo Express Stores pursuant to a Multiple Site Operator Agreement. You may pay a reduced Initial Franchise Fee for each additional Kangaroo Express Store established pursuant to a Multiple

Site Operator Agreement. Additionally, if we agree to hold the initial training session near your Store you will be required to pay us a fee to cover our expenses for such sessions.

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

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact TMC Franchise Corporation's Franchise Planning and Administrative Director, Justin Shelton, at 1130 West Warner Road, Tempe, AZ 85284; telephone number 602-728-3958.

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

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

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

Issuance Date: July 9, 2025

## How to Use This Franchise Disclosure Document

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

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

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

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

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

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

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

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

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

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

### Some States Require Registration

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

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

## Special Risks to Consider About *This* Franchise

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

1. **Out-of-State Dispute Resolution.** The franchise agreement requires you to resolve disputes with the franchisor by mediation, arbitration and/or litigation only in Arizona. Out-of-state mediation, arbitration, or litigation may force you to accept a less favorable settlement for disputes. It may also cost more to mediate, arbitrate, or litigate with the franchisor in Arizona than in your own state.
2. **Minimum Purchase Requirements.** If you enter into the Motor Fuel Agreement, you must purchase certain minimum quantities of motor fuel from us or our affiliate under the Motor Fuel Agreement. Your inability to make such purchases may result in termination of your franchise and loss of your investment.
3. **Supplier Control.** You must purchase all or nearly all of the inventory or supplies that are necessary to operate your business from the franchisor, its affiliates, or suppliers that the franchisor designates, at prices 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 franchise business.

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 INFORMATION AND NOTICES APPEARING ON THE FOLLOWING TWO PAGES APPLY ONLY TO FRANCHISES TO BE LOCATED IN THE STATE OF MICHIGAN AND ARE REQUIRED BY MICHIGAN LAW.**

**IF YOU ARE NOT LOCATED IN MICHIGAN, THE FOLLOWING TWO PAGES OF INFORMATION DO NOT APPLY TO YOU.**

**\* \* \* \***

**NOTICE FOR PROSPECTIVE FRANCHISEES WHO  
LIVE IN MICHIGAN OR WHOSE FRANCHISES WILL  
OPERATE IN MICHIGAN**

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

(A) A PROHIBITION ON THE RIGHT OF A FRANCHISEE TO JOIN AN ASSOCIATION OF FRANCHISEES.

(B) A REQUIREMENT THAT A FRANCHISEE ASSENT TO A RELEASE, ASSIGNMENT, NOVATION, WAIVER, OR ESTOPPEL WHICH DEPRIVES A FRANCHISEE OF RIGHTS AND PROTECTIONS PROVIDED IN THIS ACT. THIS SHALL NOT PRECLUDE A FRANCHISEE, AFTER ENTERING INTO A FRANCHISE AGREEMENT, FROM SETTLING ANY AND ALL CLAIMS.

(C) A PROVISION THAT PERMITS A FRANCHISOR TO TERMINATE A FRANCHISE PRIOR TO THE EXPIRATION OF ITS TERM EXCEPT FOR GOOD CAUSE. GOOD CAUSE SHALL INCLUDE THE FAILURE OF THE FRANCHISEE TO COMPLY WITH ANY LAWFUL PROVISIONS 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 FRANCHISED BUSINESS ARE NOT SUBJECT TO COMPENSATION. THIS SUBSECTION APPLIES ONLY IF: (I) THE TERM OF THE FRANCHISE IS LESS THAN 5 YEARS; AND (II) THE FRANCHISEE IS PROHIBITED BY THE FRANCHISE OR OTHER AGREEMENT FROM CONTINUING TO CONDUCT SUBSTANTIALLY THE SAME BUSINESS UNDER ANOTHER TRADEMARK, SERVICE MARK, TRADE NAME, LOGOTYPE, ADVERTISING, OR OTHER COMMERCIAL SYMBOL IN THE SAME AREA SUBSEQUENT TO THE EXPIRATION OF THE FRANCHISE OR THE FRANCHISEE DOES NOT RECEIVE AT LEAST 6 MONTHS ADVANCE NOTICE OF FRANCHISOR'S INTENT NOT TO RENEW THE FRANCHISE.

(E) A PROVISION THAT PERMITS THE FRANCHISOR TO REFUSE TO RENEW A FRANCHISE ON TERMS GENERALLY AVAILABLE TO OTHER FRANCHISEES OF THE SAME CLASS OR TYPE UNDER SIMILAR CIRCUMSTANCES. THIS SECTION DOES NOT REQUIRE A RENEWAL PROVISION.

(F) A PROVISION REQUIRING THAT ARBITRATION OR LITIGATION BE CONDUCTED OUTSIDE THIS STATE. THIS SHALL NOT PRECLUDE THE FRANCHISEE FROM ENTERING INTO AN AGREEMENT, AT THE TIME OF ARBITRATION, TO CONDUCT ARBITRATION AT A LOCATION OUTSIDE THIS STATE.

(G) A PROVISION WHICH PERMITS A FRANCHISOR TO REFUSE TO PERMIT A TRANSFER OR 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 FRANCHISEE TO MEET THE FRANCHISOR'S THEN CURRENT REASONABLE QUALIFICATION 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 A FRANCHISOR A RIGHT OF FIRST REFUSAL TO PURCHASE THE ASSETS OF A FRANCHISE ON THE SAME TERMS AND CONDITIONS AS A BONA FIDE THIRD PARTY WILLING AND ABLE TO PURCHASE THOSE ASSETS, NOR DOES THIS SUBDIVISION PROHIBIT A PROVISION THAT GRANTS THE FRANCHISOR THE RIGHT TO ACQUIRE THE ASSETS OF A FRANCHISE FOR THE MARKET OR APPRAISED VALUE OF SUCH ASSETS IF THE FRANCHISEE HAS BREACHED THE LAWFUL PROVISIONS OF THE FRANCHISE AGREEMENT AND HAS FAILED TO CURE THE BREACH IN THE MANNER PROVIDED IN SUBDIVISION (C).

(I) A PROVISION WHICH PERMITS THE FRANCHISOR TO DIRECTLY OR INDIRECTLY CONVEY, ASSIGN, OR OTHERWISE TRANSFER ITS OBLIGATIONS TO FULFILL CONTRACTUAL OBLIGATIONS TO THE FRANCHISEE UNLESS PROVISION HAS BEEN MADE FOR PROVIDING THE REQUIRED CONTRACTUAL SERVICES.

\* \* \* \*

**THE FACT THAT THERE IS A NOTICE OF THIS OFFERING ON FILE WITH THE ATTORNEY GENERAL DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION, OR ENDORSEMENT BY THE ATTORNEY GENERAL. ANY QUESTIONS REGARDING THIS NOTICE SHOULD BE DIRECTED TO THE MICHIGAN DEPARTMENT OF THE ATTORNEY GENERAL, CONSUMER PROTECTION DIVISION, ANTITRUST AND FRANCHISE UNIT, 670 LAW BUILDING, LANSING, MICHIGAN 48913.**

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

To simplify the language in this Disclosure Document, “TMC,” “we” or “our” means TMC Franchise Corporation, the franchisor. “You” means the person or persons, including legal entities and their owners, who are buying the franchise.

We were incorporated under the laws of the State of Arizona on February 7, 1995, under the name Circle K Franchise Corporation. On September 27, 1997, we changed our name to TMC Franchise Corporation. Our principal business address is 1130 West Warner Road, Tempe, Arizona 85284, (602) 728-8000.

Our agents for service of process are disclosed on Exhibit C.

Our Parents, Predecessors and Affiliates

Circle K Stores Inc. is our parent, the owner of all of our common stock, and the owner of the Kangaroo Express trademarks. Circle K Stores Inc. was incorporated under the laws of the State of Texas on June 8, 1951. The principal business address and telephone number of Circle K Stores Inc. is also 1130 West Warner Road, Tempe, Arizona 85284, (602) 728-8000. Circle K Stores Inc. has never offered franchises in any other line of business. Circle K Stores Inc. licenses TMC the right to use the trademarks in its franchise program pursuant to the license agreement described in Item 13.

Circle K Stores Inc. is a wholly-owned subsidiary of Circle K Delaware Inc., which is a Delaware corporation wholly owned by 2701439 Alberta ULC, an Alberta unlimited liability company. 2701439 Alberta ULC is majority-owned and controlled by Mac’s Convenience Stores Inc., which is an Ontario, Canada corporation. None of Circle K Delaware Inc., 2701439 Alberta ULC, or Mac’s Convenience Stores Inc. have ever offered franchises in any line of business. The principal business address of Circle K Delaware Inc. is 1130 West Warner Road, Tempe, Arizona 85284, (602) 728-8000. Mac’s Convenience Stores Inc. is, through other subsidiaries, wholly owned by the ultimate parent, Alimentation Couche-Tard Inc. (“ACT”), a Canadian public company traded on the Toronto Stock Exchange. The principal business address for 2701439 Alberta ULC, Mac’s Convenience Stores Inc. and ACT is 4204 Boulevard Industriel, Laval, Québec, Canada H7L 0E3.

On March 16, 2015, Circle K Stores Inc. acquired all equity ownership interests in The Pantry, Inc., which owned the rights to the Kangaroo Express® convenience store system, including the rights to the Kangaroo Express trademarks and the existing Kangaroo Express® convenience store assets, which included over 1,400 Kangaroo Express convenience stores. The Pantry, Inc. entity since dissolved and the Kangaroo Express® convenience store system and assets were transferred to Circle K Stores Inc. Most of the Kangaroo Express convenience stores were converted into Circle K convenience stores. As of April 27, 2025, TMC was the franchisor of 102 Kangaroo Express franchised locations primarily in the Southeastern United States.

In addition, as of the date of this Disclosure Document, ACT, through various subsidiaries, including TMC and Circle K Stores Inc., owns, operates or franchises in excess of 6,000 convenience stores in the United States under the trademark Circle K®. The Circle K® franchise

is a convenience store program operated under the Circle K<sup>®</sup> mark and in accordance with the Circle K<sup>®</sup> franchise system. TMC offers and sells the Circle K<sup>®</sup> franchise opportunity under a separate franchise disclosure document. ACT, through various subsidiaries, including Circle K Stores Inc., also owns, operates or franchises in excess of 4,000 Circle K<sup>®</sup> motor fuel businesses.

ACT is one of the largest convenience store operators in North America, with over 2,100 stores in Canada that are company-operated under brands other than Kangaroo Express. TMC has not conducted the type of business to be operated by you, but Circle K Stores Inc. and its predecessors have been operating convenience stores since 1951 and motor fuel businesses since 1951. We have offered Circle K convenience store franchises for convenience store businesses since 1995. We have offered Circle K motor fuel businesses since July 2011. We have offered Circle K branded businesses since July 2012. As of April 27, 2025 (the end of our last fiscal year), there were 569 franchised Circle K Stores in the United States. TMC operates the Circle K business from its current principal place of business, 1130 West Warner Road, Tempe, Arizona 85284. Circle K Stores Inc. has, directly or through its affiliates, offered Circle K licenses internationally since 1979. Circle K Procurement and Brands Limited, an affiliate of Circle K Stores Inc., offers Circle K franchises in a number of countries around the world. Circle K Procurement and Brands Limited's principal business address is: Topaz House, Beech Hill, Clonskeagh, Dublin 4, Ireland.

Since October 2019, we have also offered franchises for the operation of a combined retail convenience store and motor fuel business under the "Circle K" trade name and service marks and the Circle K business system for the sale of Circle K-sourced motor fuel under the "Circle K" trade name and service marks and grocery items, consumer goods, food service items and other merchandise ("Other Circle K Franchised Outlets"). TMC continues to offer and sell these Other Circle K Franchised Outlet franchise opportunities under a separate franchise disclosure document. As of April 27, 2025, there were 54 Other Circle K Franchised Outlet in the United States operating under a franchise agreement offered under such separate franchise disclosure document.

On May 28, 2009, TMC acquired the rights to the *On the Run*<sup>®</sup> franchise system from ExxonMobil Oil Corporation ("ExxonMobil"), including the rights to the *On the Run* trademarks and the existing *On the Run*<sup>®</sup> Franchise Agreements. TMC is the franchisor for 101 *On the Run* franchised locations and has the right to offer and sell franchises under the *On the Run* mark. The *On the Run* franchise is a convenience store program operated under the *On the Run* mark and in accordance with the *On the Run* franchise system. These locations are located in six states, primarily in the Eastern and Midwestern United States. TMC offers and sells the *On the Run* franchise opportunity under a separate franchise disclosure document. TMC operates the *On the Run* franchise business from its current principal place of business, 1130 West Warner Road, Tempe, Arizona 85284.

On December 22, 2017, ACT acquired all the membership interests of Holiday Stationstores, LLC. and certain affiliated companies. As a component of this transaction, TMC acquired all the membership interests of Holiday Diversified Services, LLC ("HDS") in exchange for a capital contribution, and so TMC is the direct parent of HDS. HDS is a franchisor of Holiday Stationstores<sup>®</sup> that sell automotive fuels and convenience stores products and services and that operate under the Holiday Stationstores<sup>®</sup> mark and in accordance with the Holiday Stationstores<sup>®</sup> franchise system. HDS offers and sells the Holiday Stationstores<sup>®</sup> franchise opportunity under a separate franchise disclosure document. HDS operates the franchise business from its principal

place of business, 4567 American Boulevard West, Minneapolis, Minnesota 55437. As of April 27, 2025, there were 83 Holiday Stationstores® franchises operating in the U.S.

From 1987 until February 2012, TMC's affiliate, Mac's Franchise Management, LLC ("MFM"), organized in Delaware on August 29, 2002, with principal business address of 315 Commons Mall, Columbus, Indiana 47201, offered franchises for convenience stores under the Dairy Mart brand ("Dairy Mart Franchises"). In March 2012, MFM merged into its parent entity, Mac's Convenience Stores LLC, a Delaware limited liability company organized on April 27, 2001 ("MCS"), with MCS being the surviving entity in the merger. Since the merger in March 2012, MCS has been offering Dairy Mart Franchises in the U.S. MCS's principal business address is 315 Commons Mall, Columbus, Indiana 47201. As of April 27, 2025, there were five Dairy Mart franchised stores in the U.S., all located in Ohio.

Except as noted in this Item 1, we and our predecessors and affiliates have not offered franchises in the convenience store business or in other lines of business.

### The Franchise Offered

We offer to certain qualified franchisees a franchise arrangement for Kangaroo Express Stores which consists of a franchise agreement (the "Franchise Agreement") for the right to use the "Kangaroo Express" mark and other distinctive Marks, as defined below, and the business system in connection with the operation of a single Kangaroo Express convenience store business. In addition, we may, from time to time, enter into a Franchise Agreement with existing convenience store operators, existing dealers or existing marketers. From time to time, we also have offered and may offer in the future, franchises to certain types of operators whose sites are acquired in transactions. The terms and conditions of the Kangaroo Express convenience store franchises offered to those operators may be materially different from the terms and conditions described in this Disclosure Document. The Franchise Agreement which you will be required to sign is the form of Franchise Agreement attached to this Disclosure Document as Exhibit F. We also will provide you with training and continuing support as described in this Disclosure Document and will provide you access to an online copy of the Kangaroo Express Business Systems Manuals.

We also offer to certain qualified franchisees that already own multiple, existing convenience stores or that wish to develop and operate multiple convenience stores a multiple site operator agreement (the "Multiple Site Operator Agreement") for the right to convert their existing convenience stores to Kangaroo Express Stores and/or develop multiple new Kangaroo Express Stores. Under the Multiple Site Operator Agreement, you must commit to convert and/or develop a minimum of six Kangaroo Express Stores at Franchised Locations within a given period of time. The Multiple Site Operator Agreement that you will be required to sign is the form of the Multiple Site Operator Agreement attached to this Disclosure Document as Exhibit G. The rights granted to you under the Multiple Site Operator Agreement are limited to the right to convert existing convenience stores to Kangaroo Express Stores or develop multiple new Kangaroo Express Stores at designated Franchised Locations and do not include any sort of territorial protection.

The terms and conditions of each Franchise Agreement entered into with a franchisee that has executed a Multiple Site Operator Agreement (a "Multi-Site Operator") will differ materially from TMC's standard Kangaroo Express Franchise Agreement. For example, in consideration for

a modified fee structure, you, rather than TMC, will be responsible for: (1) providing all training as required under the Franchise Agreement; and, at our option, (2) administering and collecting marketing, promotional, or other similar allowances to which you may be entitled. These and other material variations are discussed in other sections of this Disclosure Document and are incorporated into an Amendment to Kangaroo Express Franchise Agreement for Multi-Site Operators (the “Multi-Site Amendment”).

Unless otherwise stated, any reference to a Kangaroo Express convenience store franchisee in this Disclosure Document is intended to refer to: (1) a franchisee operating one Kangaroo Express Store under a single Franchise Agreement, and (2) a franchisee operating multiple Kangaroo Express Stores under multiple Franchise Agreements whether or not pursuant to the terms of a Multiple Site Operator Agreement.

We also offer to qualified Kangaroo Express convenience store franchisees the right to offer and sell, from their Kangaroo Express Store, Kangaroo Express-sourced and branded motor fuel or motor fuel from a third-party source.

As of the date of this Disclosure Document, we only offer the Motor Fuel Business to franchisees who already operate, or agree to open and operate, a Kangaroo Express Store. We reserve the right in the future to offer a Motor Fuel Business to a person or entity that does not operate a Kangaroo Express Store.

If you will operate a Motor Fuel Business, you will sign our form Motor Fuel Agreement attached to this Disclosure Document as Exhibit H (“Motor Fuel Agreement”). Franchisees operating a Motor Fuel Business under a Motor Fuel Agreement must purchase their motor fuel supply from us or our affiliate.

In addition, under the Branded Business, we offer to qualified Kangaroo Express convenience store franchisees the right to use and display the Kangaroo Express Marks (as defined below) in connection with the sale from their Kangaroo Express Store of motor fuel. Franchisees operating a Branded Business may obtain their motor fuel from any source; provided, the motor fuel meets our standards and requirements. As of the date of this Disclosure Document, we offer the Branded Business only to franchisees who already operate, or agree to operate, a Kangaroo Express Store. We reserve the right in the future to offer a Branded Business to a person or entity that does not operate a Kangaroo Express Convenience Store. If you operate a Branded Business, you will sign our Branding Agreement (in the form attached hereto as Exhibit I, the “Branding Agreement”).

If you are an existing Circle K® convenience store multi-site operator that signed a Circle K® Multiple Site Operator Agreement with us, and you propose to develop under such Circle K® Multiple Site Operator Agreement a site for a Circle K branded convenience store that does not meet our then-current site selection criteria for our Circle K® franchise program, we may, in our discretion, permit you to instead develop a Kangaroo Express® Store at such proposed location, pursuant to the terms of our then-current Kangaroo Express® Franchise Agreement, and such store will count towards your minimum development schedule obligations under the Circle K Multiple Site Operator Agreement. In such circumstances, the applicable initial franchisee fee that you previously paid under the Circle K® Multiple Site Operator Agreement will satisfy your obligation

to pay an Initial Franchise Fee under the Kangaroo Express® Franchise Agreement but no portion of such previously paid initial franchise fee will be refunded to you.

### The Kangaroo Express Stores

Kangaroo Express Stores are characterized by a system (the “Business System”), which includes distinctive exterior and interior design, decor, color schemes, and furnishings; uniform standards, specifications, and procedures for operations; quality and uniformity of products and services offered; procedures for inventory and management control; training and assistance; and advertising and promotional programs. A Kangaroo Express Store that is franchised to operate as a “Kangaroo Express” shall be a full service convenience store with sufficient floor space, vehicle parking, and inventory levels to offer all of the merchandise and services of a traditional convenience store and that complies with the specifications of a Kangaroo Express Store as further described in the Business Systems Manuals. We may make changes in the Business System, operating standards, and facility, equipment, and fixture requirements. You may have to make additional investments in the franchised business periodically during the term of the Franchise Agreement if such changes are made or if the convenience store’s equipment or facilities wear out or become obsolete, or for other reasons.

The Business System is identified by means of certain trade names, trademarks, service marks, logos, and commercial symbols (defined as the “Marks” in item 13), including the Kangaroo Express Mark, which provide recognition of the Business System to your customers.

### The Motor Fuel Business

The Motor Fuel Business is characterized by a unique system (the “Motor Fuel System”) which includes required signage; uniform standards, specifications and procedures of operation; quality and uniformity of products and services offered; and business assistance. A Motor Fuel Business will offer only Kangaroo Express-branded fuel, except as otherwise noted in the Motor Fuel Agreement. We or our affiliate will be the only supplier of Kangaroo Express-branded fuel. We may make changes to the Motor Fuel System from time to time, and you may be required to make additional investments in the Motor Fuel Business periodically during the term of the Motor Fuel Agreement if such changes are made or if your Motor Fuel Business’s equipment wears out or becomes obsolete.

The Motor Fuel System is identified by Marks, including the Kangaroo Express Mark, which provides recognition of the Motor Fuel System to your customers.

### The Branded Business

The Branded Business is characterized by a unique system (the “Branded System”) which includes required signage and uniform standards, specifications and procedures of operation. In connection with the operation of the Branded Business, you may obtain your motor fuel from any source, provided such fuel meets our standards and requirements. We may make changes to the Branded System from time to time, and you may be required to make additional investments in the Branded Business periodically during the term of the Branding Agreement.

The Branded System is identified by the Marks, including the Kangaroo Express Mark, which provides recognition of the Branded System to your customers. If you operate a Branded Business, you may license the Marks to third-party retailers that we approve. You will be responsible for ensuring that these third-party retailers comply with all obligations and requirements relating to the licensing of the Marks.

### General Market and Competition

The convenience store and motor fuel businesses are highly competitive with respect to products, price, service, location, food service, and quality of service, and is often affected by changes in consumer tastes, economic conditions, population, and traffic patterns. You must anticipate competing with numerous other convenience stores and motor fuel businesses offering a wide range of comparably priced products and services and a wide variety of service formats. The businesses with which you should expect to compete include, in general, national or regional chains and other franchised systems, and independently owned and operated local businesses located in the area of your Store, Motor Fuel Business, and/or Branded Business which offer similar products and services to the same customers, as well as traditional grocery stores and gas stations.

On the whole, convenience store and motor fuel business sales tend to be higher in the summer months, although the difference in sales from season to season varies depending upon the climate where a particular business is located. Your business will also be affected by its location, the locations of competing stores and other businesses, your financial and managerial capabilities, availability of labor, interest rates, changes in traffic patterns, demographic or cultural conditions, and other factors. There is also active competition for management and service personnel, as well as for attractive commercial real estate sites suitable for convenience stores and motor fuel businesses.

### Industry Specific Regulations

When developing a convenience store, you must consider local land use planning and zoning requirements, national and local environmental requirements, employment law matters, occupational health and safety regulations, the Americans With Disabilities Act, and any other regulations specific to the convenience retail business. In some states you may be required to obtain alcohol, tobacco, lottery, restaurant, pharmacy, business and occupational, food products, fuel retailing, and miscellaneous other permits in addition to permits that are otherwise required for convenience stores. Some states may also have laws regarding who may secure these permits. For this reason, we recommend you retain an attorney or other advisor to advise you on regulations specific to the state where your Store will be located.

Additionally, if you operate a Motor Fuel Business or Branded Business, you must comply with all local, state and federal laws, statutes and ordinances related to the sale of motor fuel and environmental protection and compliance. You also must comply with all applicable local, state and federal underground storage tank (“UST”) requirements whether currently in effect or which may come into effect in the future, including, but not limited to: (i) required inspections of any release detection equipment for USTs and product lines; (ii) required inspections of any automatic tank gauging equipment; and (iii) maintenance and required inspections of any vapor recovery equipment. You must become informed about and comply with all applicable local, state and

federal requirements related to the generation, handling, transportation, treatment, storage and/or disposal of solid or hazardous wastes. You also must implement appropriate recycling, waste management and waste minimization practices and procedures as necessary to remain in compliance with all applicable local, state and federal environmental protection and compliance requirements.

## **ITEM 2 BUSINESS EXPERIENCE**

### Director of TMC, Mark Ostoits

Mr. Ostoits works from Greenwood Village, Colorado and has been a Director of TMC since April 2025. Mr. Ostoits was appointed Senior Vice President, Operations of Circle K Stores, Inc. in July 2024. Previously, Mr. Ostoits served as Vice President, Operations, Southeast, of Circle K Stores, Inc. from May 2017 until July 2024.

### Director and Secretary, Kathleen Cunnington

Ms. Cunnington works from Tempe, Arizona and has been a director and Secretary of TMC since March 2012. Since January 2024, Ms. Cunnington also served as Senior Vice President, Global Capabilities Network of Circle K Stores Inc. Prior to that, she served as Senior Vice President, Shared Services of Circle K Stores Inc. from January 2018 until December 2023. From January 2014 until December 2017, she was Vice President, Shared Services of Circle K Stores Inc.

### President of TMC and Vice President of Worldwide Franchise, Pat Fitzpatrick

Mr. Fitzpatrick works from San Antonio, Texas, and has been President of TMC and Vice President of our Worldwide Franchise Business Unit since February 2022. Prior to that, Mr. Fitzpatrick served as Head of Full Franchise of TMC from March 2021 to January 2022, Divisional Operations Director of Circle K Stores Inc. from July 2020 to February 2021, and Marketing Director for the Texas Business Unit of Circle K Stores Inc. from July 2017 to June 2020.

### Head of Franchise Sales and Operations of Circle K Stores Inc., Marcello Ciminelli

Mr. Ciminelli works from Charlotte, North Carolina, and has been the Head of Sales & Operations for Circle K Stores Inc. since July 2024. He has also been the Executive Advisor to the CEO of Circle K Stores Inc. since June 2023. Mr. Ciminelli served as North American Operational Execution for Circle K Stores Inc. from August 2023 to July 2024 in Charlotte, North Carolina, and as the Head of Wholesale Fuels for Circle K Stores Inc. from November 2019 to August 2023 in Corona, CA.

### Director of Franchise Operations – Northwest, Jeff Calvillo

Jeff works from Granite Bay, California, and has been Director of Franchise Operations – Northwest for TMC since February 2023. From July 2016 to January 2023, Jeff was the Director of Operation for our global international licensees, with our affiliate Circle K Stores Inc. From

November 2004 to December 2015, Jeff was the Director of Franchise Operations – West Coast with TMC.

Director of Franchise Operations – Southern California, Dan Black

Mr. Black works from Corona, California, and has been TMC’s Director of Franchise Operations – Southern California since January 2019. From June 2005 to December 2018, Mr. Black was TMC’s Franchise Development Manager in Southern California.

Assistant Secretary and Director of Franchise Planning and Finance, Justin Shelton

Mr. Shelton works from Tempe, Arizona, and has been Assistant Secretary of TMC since February 2024 and its Director of Franchise Planning and Finance since February 2024. From November 2022 to January 2024, Mr. Shelton served as Corporate Controller for CleanFreak in Tempe, Arizona. Mr. Shelton was the Corporate Controller for Signature Analytics from May 2022 to October 2022 in Scottsdale, Arizona. Mr. Shelton was the Assistant Controller of Alter Domus North America from July 2020 to April 2022 in Chicago, Illinois.

Director– of Franchise Operations – Southeast U.S., Joe Kuklish

Mr. Kuklish works from Gulfport, Florida, and has served as Director of Franchise Operations – Southeast U.S. for TMC since June 2009.

Director of Franchise Operations – Northeast U.S., Pete Radziewicz

Mr. Radziewicz works from Hudson, New Hampshire and has served as Director of Franchise Operations – Northeast U.S. for TMC since March 2015. From June 2009 to February 2015, Mr. Radziewicz was a Franchise Business Consultant for TMC.

Fuels Manager, Franchise – U.S./Ontario, Joseph Bair

Mr. Bair works from Charlotte, North Carolina and has served as our Fuels Manager, Franchise since October 2018. From January 2018 to October 2018, he was Manager of Training, Wholesale Fuels for Circle K Stores Inc. From June 2016 to January 2018, he was Fuel Strategy & Project Manager, Mexico for TMC. From August 2006 to June 2016, he was Fuels Manager, Southeast for Circle K Stores, Inc.

**ITEM 3  
LITIGATION**

TMC Franchise Corporation v. Broadway Restaurants, Inc., Zuri Barnes, Case No. 21STCV 19544 (Los Angeles County Sup. Ct.). On September 13, 2019, TMC terminated for cause the Circle K franchise agreement with Broadway Restaurants, Inc. (“BRI”), after BRI failed to cure its defaults under the franchise agreement, following several opportunities to cure provided by TMC. Following the termination, TMC made multiple attempts to contact BRI to cause BRI to comply with its post-termination obligations. When such attempts proved unsuccessful, on May 25, 2021, TMC filed this action against BRI and Zuri Barnes, BRI’s guarantor under the terminated franchise agreement (collectively with BRI, the “Defendant”), due to the Defendant’s failure to comply with

its post-termination obligations under its terminated franchise agreement, including failure to de-identify the Circle K store operated under the franchise agreement and failure to pay liquidated damages as required under the franchise agreement. TMC sought damages of \$61,444 as well as recovery of attorneys' costs and fees. Defendant filed a cross-complaint on September 17, 2021, seeking damages in excess of \$5,000,000 and alleging that TMC failed to comply with its obligations under the Circle K franchise agreement, including failing to advertise Defendant's Circle K store, engaging in price fixing, and failing to deposit rebates to Defendant, which actions the Defendant further alleged constituted a breach of the implied covenant of good faith and fair dealing, and unfair business practices under California Business & Professions Code section 17200. TMC disputed all material allegations against it and that Defendant was entitled to any purported damages. Promptly after the filing of the cross-complaint, TMC filed a demurrer requesting the court to dismiss the cross-complaint in its entirety, as well as a motion to strike portions of the cross-complaint, including the damages requested, as contrary to well-established California law. The Court granted the demurrer in part and limited Defendant's right to claim damages. The parties settled the dispute on December 29, 2022, pursuant to which settlement Defendant paid TMC \$30,722, and the parties entered into mutual releases of liability and filed a stipulation of dismissal, with prejudice, of the lawsuit.

Universal Property Services, Inc., et al. v. Lehigh Gas Wholesale Services, Inc., et al., Case No. 3:20-CV-03315-FLW-TJB (D. N.J.). A former franchisee and its guarantor ("Plaintiffs") filed a lawsuit in the U.S. District Court for New Jersey on March 26, 2020, against Lehigh Gas Wholesale Services, Inc., Lehigh Gas Wholesale LLC, and LGP Realty Holdings LP (together, "Lehigh Defendants"). On April 10, 2020, Plaintiffs filed an amended complaint adding TMC Franchise Corporation ("TMC") and Circle K Stores, Inc. ("Circle K Stores") as defendants and asserting new claims against them. The amended complaint included common law and statutory claims alleging that TMC and Circle K Stores made misrepresentations and omissions in connection with the sale of 17 existing corporate-owned Circle K® convenience stores to Plaintiffs in 2019. The amended complaint also alleged that Circle K Stores wrongfully invoiced the franchisee under amended inventory agreements. In June 2020, TMC filed a motion to dismiss all claims against it and Circle K Stores filed a motion to dismiss all but one of the claims against it. On April 30, 2021, the district court directed Plaintiffs to file a Second Amended Complaint in light of its ruling that Florida law would not apply. On May 21, 2021, Plaintiffs filed a Second Amended Complaint against TMC, Circle K Stores, and the Lehigh Defendants. The Second Amended Complaint included the same common law claims against TMC and Circle K Stores alleging misrepresentations and omissions. It also included a claim under the Arizona Consumer Fraud Act against TMC based on the same allegations. Finally, it included the same breach-of-contract claim against Circle K Stores. The Second Amended Complaint, however, dropped all statutory claims against Circle K Stores. Plaintiffs allege damages in excess of \$10 million against TMC and Circle K Stores. TMC also filed a counterclaim against Plaintiffs for liquidated damages arising under the Franchise Agreements as a result of Plaintiffs materially breaching those agreements. TMC sought over \$1.1 million in damages from Plaintiffs. The parties settled the dispute on July 2, 2024 pursuant to which settlement TMC and Circle K Stores, without admitting any fault or liability, collectively paid Plaintiffs \$180,000, and the parties entered into mutual releases of liability and filed a stipulation of dismissal, with prejudice, of the lawsuit.

TMC Franchise Corporation et al. v. Golen, et al., Case No. 6:19-CV-1970 (M.D. Fla.). TMC Franchise Corporation ("TMC") and its parent company Circle K Stores, Inc. ("Circle K Stores")

filed a lawsuit in the U.S. District Court for the Middle District of Florida on October 16, 2019, against its former franchisee Ishan Interprices, Inc., and the former franchisee's guarantors Narinder Golen and Poonam Golen (together, "Defendants"). TMC filed an amended complaint on December 20, 2019, alleging that Defendants, after early termination of the franchise agreement, failed to pay liquidated damages under the franchise agreement and amounts owed under a funding agreement. Defendants filed counterclaims alleging that certain inventory-related terms of the franchise agreement were unconscionable and alleging incomplete disclosures during the franchise sales process in violation of Florida's Unfair and Deceptive Trade Practices Act. Defendants sought rescission of the franchise agreement, return of all money paid by Defendants, any other damages necessary to return the parties to a pre-contractual state, damages available under Florida's Unfair and Deceptive Trade Practices Act, and attorneys' fees and costs. The parties resolved the lawsuit through a settlement agreement effective April 27, 2020, which included mutual releases of claims and payment of certain amounts to TMC and Circle K Stores.

TMC Franchise Corporation v. J & S Group Inc., et al., Case No. CV2024-015481 (Maricopa County, Superior Court). On June 14, 2024, TMC Franchise Corporation ("TMC"), filed a lawsuit against Defendants J & S Group Inc. ("J & S") and its principal, Jagjit Singh, for breach of the Motor Fuel Agreement governing a franchised fuel facility and convenience store in San Bernardino, California. TMC also brought a breach of guaranty claim against Singh and his wife Sandeep Pandher. Defendants breached the Motor Fuel Agreement by removing Circle K branding elements from the fuel canopy and pumps (while retaining branding on the convenience store) and purchasing unbranded fuel from unapproved supplier. TMC secured preliminary injunctive relief enjoining J&S from purchasing unbranded fuel from the unapproved supplier and requiring J&S to continue purchasing fuel from TMC, and the parties entered into a settlement agreement dated October 21, 2024, pursuant to which TMC permitted J&S to rebrand its fuel facility to the "Gulf" brand and agreed to be the exclusive supplier of Gulf-branded fuel to J&S. In addition, TMC agreed to pay \$125,000 to J&S as an incentive payment to maintain the franchise and fund \$100,000 in improvements to the premises where the convenience store and fuel facility are located. The parties also extended the term of the Motor Fuel Agreement to match the term of the franchise agreement, plus an extension of two months. The parties executed the final documents documenting the term extension and the rebranding of the fuel facility effective June 6, 2025.

### **Administrative Orders Involving Affiliates and not involving Franchisor:**

Decision and Order and Order to Maintain Assets of the United States Federal Trade Commission ("FTC") in the Matter of Alimentation Couche-Tard Inc., a corporation, and CrossAmerica Partners LP, a limited partnership; Docket No. C - 4635, FTC file number 171-0184. In connection with the acquisition by ACT of equity interests in HDS and certain of its affiliates, as described in Item 1 of this Disclosure Document (the "Transaction"), on November 29, 2017, ACT and CrossAmerica Partners, LP ("CAPL" and collectively with ACT, "Respondents") executed an Agreement Containing Consent Orders with the Federal Trade Commission ("FTC") (the "Consent Agreement"). The Consent Agreement contained an Order to Maintain Assets, which was issued on December 15, 2017, and a Decision and Order (the "Order"), which was issued on February 15, 2018 following a statutory public comment period. The Consent Agreement resolves allegations by the FTC that the Transaction violates the Clayton Act, as amended, 15 U.S.C. section 18, and the Federal Trade Commission Act, as amended, 15 U.S.C. section 45. Pursuant to the Consent Agreement, Respondents were required to divest a total of 10 convenience stores

operated by Respondents or their affiliates. Three of such stores were Holiday Stationstore locations in Wisconsin operated by CAPL, as a franchisee of HDS. The signing of the Consent Agreement was for settlement purposes only and does not constitute any admission of liability by Respondents. These stores were divested in September 2018, after the June 15, 2018 deadline specified in the Order. As a result, on July 6, 2020, the FTC filed a Complaint for Civil Penalties Pursuant to Section 5(l) of the FTC Act against Respondents to obtain civil penalties for violations of the Order, alleging that Respondents failed to timely divest the 10 stores as required under the Order, failed to provide accurate and detailed information in their compliance reports as required under the Order, and failed to maintain business operations at one of the stores as required under the Order. Also on July 6, 2020, the parties entered into a Stipulation on Final Judgment against Respondents in settlement of disputed claims and without any admission of liability by Respondents, pursuant to which Respondents agreed to pay a civil penalty of \$3,500,000 within 30 days of the final judgment.

Other than the actions described above, no litigation is required to be disclosed in this Item.

#### **ITEM 4 BANKRUPTCY**

No bankruptcy information is required to be disclosed in this Item.

#### **ITEM 5 INITIAL FEES**

##### Single Store Development

##### Initial Franchise Fee

If you are signing one Franchise Agreement for a single Kangaroo Express Store, the Initial Franchise Fee is \$12,500. You will pay the entire Initial Franchise Fee of \$12,500 upon execution of the Franchise Agreement. Except as noted below, the Initial Franchise Fee is earned upon receipt and is non-refundable.

In addition, we may offer a discounted Initial Franchise Fee due to the franchisee's (or the franchisee's motor fuel supplier's) motor fuel business relationship with us or our affiliate.

If you agree to develop a limited number of Kangaroo Express Stores, but are not a Multi-Site Operator, the Initial Franchise Fee you will pay for your first Store will be \$12,500 (payable as noted above), but TMC may reduce the Initial Franchise Fee you will pay for each additional Kangaroo Express Store you agree to develop consistent with the Multi-Site Operator Initial Franchise Fee schedule in effect at the time you sign the franchise agreement for each such additional Kangaroo Express Store. For example, if you currently operate two Kangaroo Express Stores and agree to open a third Kangaroo Express Store, our current Multi-Site Operator Initial Franchise Fee schedule (as described below) provides that the Initial Franchise Fee for your second and third Kangaroo Express Stores would be \$7,500. We reserve the right to change or withdraw this program at any time. If you are not a Multi-Site Operator, you will be required to pay the Initial Franchise Fee for each Store at the time you sign the Franchise Agreement for that Store.

If you are a Multi-Site Operator, you will be required to pay the Initial Franchise Fee for each Store you agree to develop at the time you sign the Multiple Site Operator Agreement.

We reserve the right to waive the Initial Franchise Fee for any *On the Run* franchisees that convert their existing *On the Run* store to a Kangaroo Express Store.

As noted in Item 1, if you are a Circle K® convenience store multi-site operator that signed a Circle K® Multiple Site Operator Agreement with us and we permit you to develop a Kangaroo Express® Store (instead of a Circle K® convenience store) under such Circle K® Multiple Site Operator Agreement, you will execute our then-current Kangaroo Express® Franchise Agreement for such Store and the applicable initial franchisee fee that you previously paid under the Circle K® Multiple Site Operator Agreement will satisfy your obligation to pay an Initial Franchise Fee under the Kangaroo Express® Franchise Agreement but no portion of such previously paid initial franchise fee will be refunded to you.

#### Regional In-Store Training Fee

Depending on the geographic location of your Store, you or your operations manager and your store manager may be required to attend a one-week regional in-store training program conducted by our trainers at an existing franchise location. The current fee for the regional in-store training program is \$500 per person (i.e., \$1,000 for two attendees), and as of the date of this Disclosure Document, this regional training is only available on a test basis to stores located in the southeast United States. If we determine that this test regional training program is successful, we will roll out it across the United States in the coming years.

#### Multiple Store Development by Multi-Site Operator

##### Initial Franchise Fee

If you sign a Multiple Site Operator Agreement, you will be required to commit to open at least six Stores and pay a non-refundable Initial Franchise Fee of \$5,000 for each Store, payable at the time you sign the Multiple Site Operator Agreement.

Regardless of whether you are opening a single Kangaroo Express Store or multiple Kangaroo Express Stores under a Multiple Site Operator Agreement, if you do not complete any portion of our initial training program (“Training Program”) to our satisfaction, or if any financial, personal, or other information you provided to us is materially false, misleading, incomplete, or inaccurate, or if we determine that you lack the necessary business experience or we determine you are incapable of properly managing the Store, your Franchise Agreement may be terminated and your Initial Franchise Fee will not be refunded. If you are unable to secure any necessary permits for the construction of your Store despite your good faith efforts and due diligence, we may refund the Initial Franchise Fee, less all reasonable expenses incurred by us in processing your application, providing you our Training Program, any travel expenses we incur, expenses incurred in our employee’s time for meetings and consultation with you, the costs incurred in preparing a store development package and floor plan development, long distance telephone calls, attorneys’ fees, and other related expenses. We do not give refunds under any other circumstances.

During our last fiscal year, the Initial Franchise Fees paid to us for a single Kangaroo Express Store ranged from \$0 to \$12,500. The low end of the range represents the Initial Franchise Fee being waived or reduced in connection with the signing of a single store Franchise Agreement after having entered into a Multiple Site Operator Agreement.

In addition to the Initial Franchise Fee described above, and regardless of whether you are opening a single Kangaroo Express Store or multiple Kangaroo Express Stores, in the instances where you are purchasing an existing company-operated Kangaroo Express Store, your initial investment will consist of the purchase price that we and you negotiate as well as the merchandise inventory of the Store in the range of \$60,000 to \$100,000 (non-refundable) as further described in Item 7.

Initial Training Fee

If you are a Multi-Site Operator, we may agree to hold initial training sessions near your Store to reduce your travel costs. In this event, you will be required to pay a fee to us to cover our expenses for such sessions and a fee per participant, based on the following chart:

<b>Group Size</b>	<b>Cost</b>
1 to 5	Actual expenses plus \$200 per person
6 to 10	Actual expenses plus \$150 per person
11 to 15	Actual expenses plus \$100 per person

Motor Fuel Business

In connection with signing the Security Deposit Agreement (the “Security Agreement”), attached as Exhibit 1 to the Motor Fuel Agreement, you will pay us a Security Deposit in an amount ranging from \$20,000 to \$50,000. The Security Deposit you will be required to pay will depend on a number of factors, including the geographic region in which your franchise is located.

The Security Deposit will be deposited into a non-interest-bearing account (the “Security Deposit Account”).

The Security Deposit is paid to secure your payment of all monies due under, and performance and observance of all the terms, covenants and conditions contained in the Motor Fuel Agreement. If you fail to timely pay any amount due and owing under the Motor Fuel Agreement, we may draw upon the Security Deposit and apply the funds toward the payment of an amount due and owing to us. If we draw upon the Security Deposit, you must immediately pay us an amount sufficient to restore the Security Deposit to its prior level.

Upon termination, expiration or non-renewal of the Motor Fuel Agreement, we may also draw upon the Security Deposit to satisfy any past due amounts, loss, damage, injury or liability caused by your failure to perform any condition, covenant or term of or make any payment under the Motor Fuel Agreement. Any remaining balance of the Security Deposit Account will then be refunded to you.

If the premises where your Motor Fuel Business is located are owned by us or our affiliate, we may reduce or waive the amount of Security Deposit you are required to pay.

**Branded Business**

You will not pay any initial fees to TMC or its affiliates in connection with any Branded Business you operate.

**Vet Fran Program**

We participate in the Veterans Transition Franchise Initiative (commonly referred to as “Vet Fran”) which seeks to provide opportunities for veterans who want to be in business. If you provide acceptable documentation that you have received an honorable discharge from the United States Army, Navy, Air Force, Marine Corps or Coast Guard, you may be eligible to receive a 10% discount off of the Initial Franchise Fee amount due at the time you sign the Franchise Agreement.

**ITEM 6  
OTHER FEES**

**Kangaroo Express Store**

<b>Type of Fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Royalty Fees	<u>Single Site Operator</u> 3.0% to 5.5% of total Gross Sales, with a minimum of \$1,000 per month <sup>2</sup> <u>Multi-Site Operator</u> 2.5% to 5.5% of total Gross Sales, with a minimum of \$1,000 per month per store <sup>3</sup>	Currently payable monthly on the 25 <sup>th</sup> day of each month by electronic funds transfer. We reserve the right to change the due date upon 30 days’ prior notice.	See Notes 1-3
Royalty for Additional Business product or service offering	Currently, 1.0% of total Gross Sales of an Additional Business.	Payable at the same time and in the same manner as Royalty Fees.	See Note 4  We reserve the right to increase this royalty to up to 2% during the term of the Franchise Agreement.
Optional Program Fees	Varies depending on the program but ranges from 5% to 75% of Optional Program revenue	Payable at the same time and in the same manner as Royalty Fees.	See Note 5
Promotional Fees	<u>General Promotional Fee:</u> 0.25% of Gross Sales (on Gross Sales of up to \$125,000) for general promotional costs.  <u>Local and Regional Promotional Fee:</u> Up to 0.75% of Gross Sales (on Gross Sales of up to \$125,000) for local and regional promotional costs.  <u>National Promotional Fee:</u> Up to 0.25% of Gross Sales (on Gross Sales of up to \$125,000).	Payable at the same time and in the same manner as Royalty Fees.	See Note 6

<b>Type of Fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Interest	Lower of maximum legal rate allowed by law or 1½% per month	See Note 7	Interest on late payments is non-refundable. See Note 7
Late Fee	\$25 per day beginning on the 11 <sup>th</sup> day after the due date	11 <sup>th</sup> day after the due date	If you fail to provide us when due any sales, financial statements or other report and such failure continues for a period of 10 days past the due date you must pay us a late fee
Insufficient Funds Fee/ EFT noncompliance fee	Currently \$50 per payment (or per day of noncompliance, as applicable) or the maximum legal rate allowed by law	Upon demand	Payable if insufficient funds are available in your account at the time payment is due under the Franchise Agreement.  We reserve the right to increase this fee, but as of the date of this Disclosure Document we don't anticipate any increase to be more than 20% annually.
Audits and Inspections	Our actual cost of audit/inspection plus late payments as noted above; annual cost of inspection generally ranges from \$0 to \$400	See Note 8	Costs include travel, salaries and other expenses. See Note 8
Inspection Noncompliance Fee	The then-current fee; currently \$1,000 per failed inspection, plus reimbursement of our costs incurred in connection with the failed inspection	Upon demand	If you fail to fully cooperate with a store inspection, you will be in default under your Franchise Agreement, and in addition to curing the default, you will be required to pay this fee and reimburse us for our costs.  We reserve the right to increase this fee but as of the date of this Disclosure Document we don't anticipate any increase to be more than 20% annually.
Software License Fee	\$0 per month (currently)	Payable at the same time and in the same manner as Royalty Fees.	Right to charge upon sixty (60) days written notice. See Note 9.  If we were to begin charging a fee, as of the date of this Disclosure Document, we don't

Type of Fee	Amount	Due Date	Remarks											
			anticipate this fee to be more than \$1,000 per Accounting Period.											
Transfer Fee	The then-current Initial Franchise Fee	Payable prior to or on the date of transfer	Reduced Transfer Fee may apply in certain circumstances. See Note 10											
Relocation Fee	50% of the then-current Initial Franchise Fee	Payable prior to the relocation date	Only payable if you move the location of your Store during the term.											
Liquidated Damages (Franchise Agreement)	An amount equal to royalty payments for a period equal to lesser of 48 months or the remaining term of the Franchise Agreement based on the average monthly royalty fee payments payable by you for the most recent 12-month period or for a shorter period if the Franchise Agreement hasn't been in effect for 12 months.	Payable upon termination of the Franchise Agreement	See Note 11											
Debit/Credit Card Fee/Service Charge	<p>The then-current fees</p> <p>Fees as of the date of the FDD: See below.</p> <p>Per-Transaction and Processing Fees:</p> <table border="1" data-bbox="407 953 841 1236"> <thead> <tr> <th data-bbox="407 953 521 1047">Card Type</th> <th data-bbox="521 953 688 1047">Per Transaction Fee</th> <th data-bbox="688 953 841 1047">Processing Fee</th> </tr> </thead> <tbody> <tr> <td data-bbox="407 1047 521 1079">Visa</td> <td data-bbox="521 1047 688 1173" rowspan="3">\$ 0.12</td> <td data-bbox="688 1047 841 1173" rowspan="3">1.80%</td> </tr> <tr> <td data-bbox="407 1079 521 1142">Master Card</td> </tr> <tr> <td data-bbox="407 1142 521 1173">Debit</td> </tr> <tr> <td data-bbox="407 1173 521 1236">All Others</td> <td data-bbox="521 1173 688 1236">\$ 0.12</td> <td data-bbox="688 1173 841 1236">3.25%</td> </tr> </tbody> </table>	Card Type	Per Transaction Fee	Processing Fee	Visa	\$ 0.12	1.80%	Master Card	Debit	All Others	\$ 0.12	3.25%	Upon demand	If you do not sell fuel at the Franchised Location, you will be required to process debit/credit cards through the TMC Network and pay us any debit/credit card (processing) fees and/or service (transaction) fees that we charge in connection with debit/credit card transactions. TMC reserves the right to modify the fees from time to time on 30 days' advance written notice, but as of the date of this Disclosure Document we don't anticipate any increase to be more than 20% annually. See Note 12.
Card Type	Per Transaction Fee	Processing Fee												
Visa	\$ 0.12	1.80%												
Master Card														
Debit														
All Others	\$ 0.12	3.25%												
Network Fee	The then-current fee; currently \$50 per month	Payable at the same time and in the same manner as Royalty Fees.	The Network Fee is charged to those franchisees that process debit/credit cards through the TMC Network. TMC has the right to modify the Network Fee from time to time on 30 days' advance written notice, up to an increase of 20% in any 12 month period. See Note 12.											

<b>Type of Fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Liquidated Damages (Credit Network Agreement)	An amount equal to the lesser of (i) 48 or (ii) the remaining number of months under the term of the agreement, multiplied by \$3,000.	Payable upon termination of the Credit Network Agreement	
Debranding Fee	If you fail to debrand your site to our satisfaction, you must reimburse us for all actual costs we incur in removing from the former Franchised Location items of trade dress, signs and other promotional materials bearing the Kangaroo Express Marks or otherwise related to the business system. We estimate this amount to be \$10,000.	Payable upon demand	See Note 13
Renewal Fee	Currently \$5,000	See Note 14	See Note 14

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**Notes to table:**

Unless otherwise stated in this Disclosure Document, all fees are imposed by and payable to us or our affiliates and are nonrefundable. The fees outlined in this table are uniformly imposed throughout the Kangaroo Express convenience store system except as provided for herein. On occasion, we may consider, with respect to you or other franchisees, reducing one or more fees described in the Item 6 to fit a particular concern, taking into account a variety of factors, including, but not limited to, where a franchisee agrees to develop a significant number of Kangaroo Express businesses, a franchisee agrees to significantly accelerate its historical development patterns, a franchisee agrees to develop Kangaroo Express businesses in a new territory, a franchisee proposes to develop unique sites or a franchisee desires to rebuild its franchised Kangaroo Express business at the current site.

<sup>1</sup>The Royalty Fee is based upon a percentage of Gross Sales. “Gross Sales” means the total dollar income from the sale of all goods, wares, merchandise, and services sold whether sold (including car wash services provided using the Marks), for cash, for payment by check, on credit, on barter or otherwise, without reserve or deduction for the inability or failure to collect from customers, and all other items of value received by you as payment in the course of such operations (including, without limitation, handling and placement fees and fees for the operation of coin-operated and other machines), excluding the following:

- (i) motor fuel sales, car wash revenues (provided the car wash is not using the Marks), money orders, lottery, pay phones, ATMs, postage stamps, pre-paid phone card, gift cards, and gaming machines;
- (ii) sales from other approved royalty-based franchises that require separate point-of-sale equipment as part of their business system (excluding any approved Additional Business (as defined below in Note 5) which is subject to the separate Co-Branded Royalty Fee noted in the table above);
- (iii) authorized cash or credit refunds made upon transactions that were previously included in Gross Sales, not exceeding the selling price of merchandise returned by

the purchaser and accepted, which refunds may be deducted from Gross Sales in the month made;

- (iv) the amount of any separated, collected, and stated city, county, state, or federal sales, luxury, or excise tax on such sales, which you pay directly to the taxing authorities rather than to suppliers; provided, however, that no franchise or capital-stock tax or any other similar tax based upon income, profits, or gross sales shall be deducted from Gross Sales; and,
- (v) other products or services we may from time to time approve in writing for calculation of gross sales on the basis of earnings as opposed to sales proceeds.

From and after opening of your Store, your monthly Royalty Fee will be the greater of (x) \$1,000.00 or (y) the amount calculated based on the applicable percentage of Gross Sales as noted herein.

You are prohibited from operating another business, including another royalty-based franchised business with separate point-of-sale equipment, at your Store or at the Franchised Location, unless you obtain our prior written consent. Our consent may be conditioned on your agreement that sales from any such other business will be included in Gross Sales for the purposes of calculating your Royalty and Promotional Fee payments under your Franchise Agreement. Operation of any such other business at your Store or at the Franchised Location without our prior written consent will be a material breach of your Franchise Agreement.

Royalty Fees are payable to us and are non-refundable. All monthly payments required by the Franchise Agreement must be paid by electronic funds transfer via the Automated Clearing House (“ACH”) or wired to us or our affiliate by the 25<sup>th</sup> day of each month for the preceding calendar month’s business activity. If the 25<sup>th</sup> day of the month falls on a Saturday or Sunday, such fees shall be paid on the Monday following the 25<sup>th</sup> day of the month. Any payment not actually received on or before such date will be deemed overdue.

<sup>2</sup>Your monthly Royalty Fee rate will depend on: (i) the amount of Equipment/Construction Funding you choose to accept from us, (ii) whether your Store is located in an area that prohibits or restricts the collection of royalties on the sale of alcoholic beverages, and (iii) whether we allow you to install gaming machines in the Store. Based on the level of Equipment/Construction Funding you accept from us, your Royalty Fee rate will be determined as follows: (a) if you are a single site operator and you choose not to accept any Equipment/Construction Funding from us, your Royalty Fee rate will be 3.0% of Gross Sales; (b) if you accept Level 1 Equipment/Construction Funding we offer to you, your Royalty Fee rate will be 3.75% of Gross Sales; (c) if you accept the Level 2 Equipment/Construction Funding we offer to you, your Royalty Fee rate will be 4.5% of Gross Sales; or (d) if you accept Level 3 Equipment/Construction Funding we offer to you, your Royalty Fee rate will be 5.5%. See ITEM 10 for the definitions of the various levels of funding.

In addition, if your Store is located in an area that restricts or prohibits the collection of royalties on the sale of alcoholic beverages, your Royalty Fee rate will be increased by 0.5%, provided the definition of Gross Sales (as outlined above) will not include any income from the sale of alcoholic beverages. Additionally, the monthly Royalty Fee may be increased by up to 1% if you keep your

Store open less than 24 hours per day (and 24-7 operation is not prohibited by the law) or you utilize a pass-through window or bullet-resistant glass surrounding the sales counter for any time period. Finally, if we allow you to install gaming machines in your Store, your Royalty Fee rate will be further increased by up to 1%.

If, following a transfer or a renewal, you fail to complete, within 9 months of the transfer or renewal (as applicable), the required Store upgrades and renovations to conform the Store to our then-current standards and image, your Royalty Fee rate will be increased by 1% until such time as all required upgrades and renovations have been completed and the default is cured. In addition, we reserve the right to exercise all other rights available to us under the Franchise Agreement and applicable law, including the right to terminate the Franchise Agreement.

<sup>3</sup>If you are a Multi-Site Operator and execute a separate Multi-Site Amendment for each Store you operate, the Royalty Fee for your Stores will be based on your Minimum Development Schedule commitment and will depend on: (i) the number of Stores you open and continually operate in full compliance at the time the Royalty Fee is paid, (ii) the amount, if any, of Equipment/Construction Funding you accept, (iii) whether your Stores are located in an area that prohibits or restricts the collection of royalties on the sale of alcoholic beverages, and (iv) whether we permit you to install gaming machines at one or more of your Stores.

<b>Number of Stores</b>	<b>Amount of Equipment/Construction Funding Accepted</b>	<b>Royalty Fee (based upon Gross Sales)</b>
1-5 Stores	No Equipment/Construction Funding Accepted	3.0% per Store
	Level 1 Equipment/Construction Funding Accepted	3.75% per Store
	Level 2 Equipment/Construction Funding Accepted	4.5% per Store
	Level 3 Equipment/Construction Funding Accepted	5.5% per Store
6-9 Stores	No Equipment/Construction Funding Accepted	2.85% per Store
	Level 1 Equipment/Construction Funding Accepted	3.5% per Store
	Level 2 Equipment/Construction Funding Accepted	4.2% per Store
	Level 3 Equipment/Construction Funding Accepted	5.2% per Store
10-19 Stores	No Equipment/Construction Funding Accepted	2.7% per Store
	Level 1 Equipment/Construction Funding Accepted	3.3% per Store
	Level 2 Equipment/Construction Funding Accepted	3.9% per Store
	Level 3 Equipment/Construction Funding Accepted	4.9% per Store
20-29 Stores	No Equipment/Construction Funding Accepted	2.5% per Store
	Level 1 Equipment/Construction Funding Accepted	3.1% per Store
	Level 2 Equipment/Construction Funding Accepted	3.7% per Store
	Level 3 Equipment/Construction Funding Accepted	4.7% per Store
30 or more Stores	No Equipment/Construction Funding Accepted	2.5% per Store
	Level 1 Equipment/Construction Funding Accepted	3.0% per Store
	Level 2 Equipment/Construction Funding Accepted	3.5% per Store
	Level 3 Equipment/Construction Funding Accepted	4.5% per Store

In addition, if your Store(s) is located in an area that prohibits or restricts the collection of royalties on the sale of alcoholic beverages, your Royalty Fee will be increased by 0.5%; provided the definition of Gross Sales (as outlined above) will not include any income from the sale of

alcoholic beverages. Finally, if we allow you to install gaming machines in your Store, your Royalty Fee rate for that Store will be further increased by up to 1%.

Again, from and after opening of each of your Stores, your monthly Royalty Fee for each Store will be the greater of (x) \$1,000.00 or (y) the amount calculated based on the applicable percentage of Gross Sales as noted herein.

The additional Royalty Fee reduction offered to Multi-Site Operators is due, in part, to their commitment to maintain training, advertising and promotions, and other operational programs and standards through their own employees and infrastructure. Upon a default of these or other obligations, in addition to other remedies available to us, we have the right to increase the Royalty Fees for any of a Multi-Site Operator's Kangaroo Express Stores opened pursuant to a Multiple Site Operator Agreement to any level up to the then-current single-site Royalty Fee (adjusted according to the level of funding accepted by Franchisee).

The monthly Royalty Fee may be increased by up to 1% if you keep your Store open less than 24 hours per day (and 24-7 operation is not prohibited by the law) or you utilize a pass-through window or bullet-resistant glass surrounding the sales counter for any time period.

<sup>4</sup>You must obtain our written approval prior to operating any other business from your Store. If we approve a separate food service business to be operated from your Store (such separate business, an "Additional Business"), you will be required to pay us a separate Co-Branded Royalty Fee as a percentage of the Additional Business's Gross Sales. This fee is due at the same time and under the same conditions as your Store Royalty Fee. TMC may, in its sole determination, approve an unaffiliated third-party operator of the Additional Business within the Store, subject to such terms and conditions as TMC may from time to time establish. You must provide a copy of your lease with the third-party Additional Business operator, and the third-party operator must provide its executed franchise agreement with the Additional Business franchisor to TMC prior to occupying the Store and/or must enter into an agreement with TMC in a form provided by TMC. Currently, we charge a Co-Branded Royalty Fee of 1% of an Additional Business's Gross Sales, but we reserve the right to charge up to 2% of an Additional Business's Gross Sales. If you meet certain criteria established by us (as amended from time to time) and you are approved by us, we may charge you a flat monthly fee (currently \$500 per month, and we reserve the right to charge up to \$5,000 per Accounting Period) in lieu of the monthly 1.0% Co-Branded Royalty Fee on the sales generated by the Additional Business. We reserve the right to impose such other conditions and requirements (including insurance and indemnification requirements as well as inspection and audit rights for the benefit of TMC and its affiliates) as we elect in our sole discretion, with respect to any approved Additional Business.

<sup>5</sup>You may, but are not required to, participate in other programs we negotiate (each, an "Optional Program"). As of the date of this Disclosure Document, we offer the following Optional Programs: Glacier Water Program, and Air/Water. In connection with participating in an Optional Program, you will share a portion of the Optional Program revenue with us and may be required to enter into a program agreement with us and/or a third-party vendor approved by us.

<sup>6</sup> You will not be required to pay Promotional Fees on Gross Sales over \$125,000 per month. The Promotional Fees are paid to us in the same manner as the Royalty Fees and are non-refundable.

Our custody or possession of any such Promotional Fees shall not be construed as making TMC your fiduciary with respect to such fees.

<sup>7</sup>If you fail to pay any amounts due to us under the Franchise Agreement by the due date, the payment will be considered late and we will charge you interest on the amount past due at the lesser of 1½ % per month or the maximum legal rate allowed under applicable law. Interest on late payments is non-refundable. A payment will be considered late if: (i) you fail to pay us the amount owed or (ii) if insufficient funds are available in your account to fully pay the amount owed.

If insufficient funds are available in your account at the time payment is due, we may charge you our then-current insufficient funds fee, currently \$50 or the maximum legal rate allowed by law, for each insufficient funds payment. In addition, if prior to the date your Kangaroo Express Store opens for business, you fail to make arrangements with your bank to allow us to draw on your bank account by ACH or wire transfer for the fees/payments due to us or you fail to execute the EFT Authorization (included as an exhibit to the franchise agreement), you will be required to pay us a fee of \$50 for each day such noncompliance continues.

<sup>8</sup>If an audit reveals that you have underpaid us for amounts owing under your Franchise Agreement, and the underpayment is willful or exceeds two percent (2%) of your actual Gross Sales, in addition to paying the full amount owing, with interest, you must reimburse us for the cost of the audit, including travel, lodging, meals, reasonable professional fees, salaries, and other expenses of the persons conducting the audit. Furthermore, in addition to TMC's right to directly inspect your business, TMC also has the right to hire an outside agency to inspect your business, in which case you may be required to pay the costs of these inspections.

<sup>9</sup>The Software License Fee is for the right to utilize the TMC Software, as defined in the Electronic Point of Sale and Software Agreement (the "Software Agreement") (a copy of which is attached to the Franchise Agreement as Exhibit 2), required for your Store and includes all upgrades as they become available. The Software License Fee is paid to us in the same manner as the Royalty Fee. Currently, we are not charging a Software License Fee, but have the right to do so upon sixty (60) days' written notice.

<sup>10</sup>You must obtain our consent to any transfer or assignment of your interest in the Franchise Agreement, and you or the proposed transferee must pay us a transfer fee in an amount equal to the then-current Initial Franchise Fee prior to the proposed transferee attending training. For example, as of the date of this Disclosure Document, the transfer fee would be \$12,500, and such amount may be payable in multiple installments, depending on the lease term remaining on the Franchised Location. If no current franchise disclosure document exists at the time of the transfer, then the transfer fee will be equal to the Initial Franchise Fee of the most recent franchise disclosure document in effect prior to the transfer. A reduced transfer fee of \$3,000 may apply in the following circumstances: (1) the transfer is to your spouse or adult child (if you are an individual), or, if Franchisee is a corporate entity or partnership and the Transfer is to the adult spouse or child of the majority owner; (2) the transfer is to a corporation in which you are the principal shareholder retaining a majority ownership interest and you remain the officer responsible for the full-time personal operation and supervision of the Store; (3) the transfer is the transfer of any interest of any partner or shareholder to another existing or new partner or shareholder, provided your majority partner or shareholder remains the same; or (4) only your

name is changed (if you are a corporation or other entity). The transfer fee is not refundable under any circumstances.

If you are a Multi-Site Operator, any transfer of a Multiple Site Operator Agreement is subject to TMC's consent and to your transferring all rights and interests in and to any and all Franchise Agreements executed pursuant to the Multiple Site Operator Agreement. Accordingly, you or the proposed transferee will be required to pay TMC a transfer fee as provided under each Franchise Agreement being transferred and to otherwise comply with all assignment terms and conditions set forth in the respective Franchise Agreements.

<sup>11</sup>If the balance of the 10-year term of your Franchise Agreement is less than 48 months, then the calculation of liquidated damages will be based on the remainder of the months in the term. If the Store has never been opened and therefore has no history of royalty payments, liquidated damages will be calculated based on the average monthly Gross Sales submitted by all Kangaroo Express franchisees located in your state for the 12 month period immediately preceding the termination. If there are no Kangaroo Express franchisees located in your state, the calculation will be based on the average monthly Gross Sales submitted by all Kangaroo Express franchisees located in the United States. In any and all cases, the average monthly Royalty Fee payment amount of the liquidated damages calculation shall be no less than \$1,000 since that is the minimum required monthly Royalty Fee.

If you are a Multi-Site Operator and are in default of the Multiple Site Operator Agreement as a result of your failure to meet the Minimum Development Schedule, rather than terminating the Multiple Site Operator Agreement, we may charge you liquidated damages of \$2,000 per month for each Store that is not opened and operating in accordance with the Minimum Development Schedule. For example, if by the end of Year 1 you are required to have 45 Stores open and operating but only have 35 Stores open and operating, we may require you to pay us \$20,000 in liquidated damages for each month you are behind in your development or conversion obligations, beginning with the first month of Year 2. If you then open two Stores in the first month of Year 2, then liquidated damages for the second month of Year 2 would be \$16,000. Our election to charge liquidated damages for one failure to meet the Minimum Development Schedule does not act as a waiver of our right to terminate or pursue other remedies for your subsequent failure to meet the Minimum Development Schedule.

<sup>12</sup> If you do not offer any fuel for sale at the Franchised Location, or if you enter into the Motor Fuel Agreement or the Branding Agreement, you will be required to sign the Credit Network Agreement (the "Credit Network Agreement"). Pursuant to the Credit Network Agreement, we will provide you with a debit/credit network that you will be required to use to process debit and credit card transactions. You will be required to pay a Network Fee (payable in advance on the 25th day of each month) and any debit/credit card (processing) fees and/or service (transaction) fees that we may charge. We currently charge the fees stated in the above table in connection with all credit/debit card transactions, and such fees are subject to change upon 30 days' prior notice to you, up to an increase of ten percent (10%) in any twelve-month period. We reserve the right to replace the TMC Network with a substitute network and charge fees for your access to and use of such substitute network.

<sup>13</sup>If you fail to debrand your site to our satisfaction upon the termination or expiration of your Franchise Agreement, we may hire a third party to complete the work. We estimate these costs to be \$10,000. You will be charged for all costs associated with debranding your site.

<sup>14</sup>If you are a Multi-Site Operator, you do not have the right to renew your development rights, although you may be permitted to develop additional Kangaroo Express Stores beyond those listed on the Minimum Development Schedule if you and we reach a mutual agreement as to the terms and conditions of any such development rights. As of the date of this Disclosure Document, the Renewal Fee is \$5,000 for individual Franchise Agreements. We reserve the right to increase the Renewal Fee in the future, up to the then-current initial franchise fee.

## OTHER FEES

### Motor Fuel Business

<b>Type of Fee</b>	<b>Amount</b>	<b>Due Date</b>	<b>Remarks</b>
Network Fee	The then-current fee; Currently, \$50 per month	Payable monthly on the 25 <sup>th</sup> day of each month by electronic funds transfer	TMC has the right to modify the Network Fee from time to time on 30 days advance written notice, up to an increase of 20% in any 12-month period.
Optional Program Fees	Varies depending on the program but ranges from 5% to 75% of Optional Program revenue	Payable monthly on the 25 <sup>th</sup> day of each month by electronic funds transfer	See Note 1
Motor Fuel Pass-Through Fee	\$35 to \$50 per delivery	Upon demand	See Note 2
Licensing Fee	Greater of (i) \$0.0075 per gallon of motor fuel products sold or (ii) \$500 per site	Payable monthly on the 25 <sup>th</sup> day of each month by electronic funds transfer	Paid as consideration for your right to use TMC trademarks in connection with advertising, marketing and resale of motor fuel products at the Premises.
Insufficient Funds Fee	\$50 to \$250 per payment or the maximum legal rate allowed by law	Upon demand	See Note 3
Interest	Lower of maximum legal rate allowed by law or 1½% per month, not to exceed 18% per annum	See Note 4	Interest on late payments is non-refundable. See Note 5
Liquidated Damages (Purchase of Fuel)	An amount equal to the greater of: (i) \$0.04 per gallon multiplied by the minimum monthly volume in motor fuel gallons set forth in the Motor Fuel Agreement, multiplied by the lesser of (a) 48 months or (b) the number of months remaining under the term of the Motor Fuel Agreement, or (ii) \$0.04 per gallon multiplied by the average monthly volume in motor fuel gallons actually purchased by you	Payable upon termination of the Motor Fuel Agreement	

Type of Fee	Amount	Due Date	Remarks
	(calculated for the period starting on the effective date of the Motor Fuel Agreement until the termination date) multiplied by the lesser of (a) 48 months or (b) the number of months remaining under the term of the Motor Fuel Agreement.		
Liquidated Damages (Licensing Fee)	An amount equal to Licensing Fee payments for a period equal to lesser of 48 months or the remaining term of the Motor Fuel Agreement, based on the average monthly Licensing Fee payments payable by you for the preceding 12 months or for a shorter period if the Motor Fuel Agreement has not been in effect for 12 months.	Payable upon termination of the Motor Fuel Agreement	
Debit/Credit Card Fee/Service Charge	See Note 6	Upon demand	You will be required to pay us any debit/credit card (processing) fees and/or service (transaction) fees that we charge in connection with debit/credit card transactions. TMC reserves the right to modify the debit/credit card and/or service charge fees from time to time on 30 days' advance written notice, up to an increase of 10% in any 12-month period.
Liquidated Damages (Credit Network Agreement)	An amount equal to the lesser of (i) 48 or (ii) the remaining number of months under the term of the agreement, multiplied by \$3,000.	Payable upon termination of the Credit Network Agreement	
Taxes	Varies	Upon demand	You must pay to us or any governmental agency designated by us any duty, tax, fee or other charge required by any municipal, state, federal or other law relating to the production, manufacture, inspection, transportation, storage, sale, delivery or use of products covered by the Motor Fuel Agreement.
Audits and Inspections	Actual cost of audit and inspection, generally ranging from \$0 to \$400	Upon demand	If an audit or inspection reveals that you are not offering Kangaroo Express-branded motor fuel, we reserve the right to charge you our costs and expenses associated with

Type of Fee	Amount	Due Date	Remarks
			conducting the audit, including travel, salaries and other expenses.
Reimbursement of Incentive and Amortization Agreement	You must pay us the remaining balance owed under the Incentive and Amortization Agreement	Payable upon termination of the Motor Fuel Agreement	

**Notes to table:**

Unless otherwise stated in this Disclosure Document, all fees are imposed by and payable to us or our affiliates and are nonrefundable. All fees are uniformly imposed, except as otherwise provided herein.

<sup>1</sup>You may, but are not required to, participate in any Optional Programs we negotiate. As of the date of this Disclosure Document, we offer the following Optional Programs: Glacier Water Program and Air/Water. In connection with participating in an Optional Program, you will share a portion of the Optional Program revenue with us and may be required to enter into a program agreement with us and/or a third party-vendor approved by us.

<sup>2</sup>If a quantity of motor fuel less than a full truckload is delivered, we may require you to pay us a Motor Fuel Pass-Through Fee, currently \$35 per load. Additionally, if you request a delivery of motor fuel at a time earlier than the established delivery schedule we may charge you an Early Delivery Fee, currently \$50 per load.

<sup>3</sup>If insufficient funds are available in your account at the time payment is due we may charge you an insufficient funds fee ranging from \$50 to \$250, or the maximum legal rate allowed by law, for each insufficient funds payment.

<sup>4</sup>If you fail to pay any amounts due to us under the Motor Fuel Agreement by the due date, the payment will be considered late and we may charge you interest on the amount past due at the lesser of 1½ % per month or the maximum legal rate allowed under applicable law, but no more than 18% per annum simple interest. Interest on late payments is non-refundable. A payment will be considered late if: (i) you fail to pay us the amount owed or (ii) if insufficient funds are available in your account to fully pay the amount owed.

<sup>5</sup>You are required to pay us all debit/credit card (processing) fees and/or service (transaction) fees in connection with the processing of your debit/credit card transactions. The table below reflects the current processing and transaction fees associated with the processing of debit/credit card transactions. We reserve the right to modify these fees from time to time upon 30 days' advance written notice, up to an increase of ten percent (10%) in any twelve-month period.

Card Type	Per Transaction Fee	Processing Fee
Visa	\$ 0.12	1.80%
MasterCard		
Debit		
All Others	\$ 0.12	3.25%

## OTHER FEES

### Branded Business

Type of Fee	Amount	Due Date	Remarks
Licensing Fee	Varies, but generally \$0.0075 per gallon of fuel sold at Branded Business. We reserve the right to modify the Licensing Fee.	Payable monthly on the 25 <sup>th</sup> day of each month by electronic funds transfer	You are required to pay us a monthly Licensing Fee, and your monthly Licensing Fees must exceed \$500 per month, per site (the “Minimum Monthly Fee”).
Network Fee	The then-current fee; Currently, \$50 per month	Payable monthly on the 25 <sup>th</sup> day of each month by electronic funds transfer	TMC has the right to modify the Network Fee from time to time on 30 days’ advance written notice.
Optional Program Fees	Varies depending on the program but currently ranges from 5% to 50% of Optional Program revenue	Payable monthly on the 25 <sup>th</sup> day of each month by electronic funds transfer	See Note 1
Insufficient Funds Fee	\$50 to \$250 per payment or the maximum legal rate allowed by law	Upon demand	See Note 2
Interest	Lower of maximum legal rate allowed by law or 1½% per month, not to exceed 18% per annum	See Note 3	Interest on late payments is non-refundable. See Note 3
Debit/Credit Card Fee/Service Charge	See Note 4	Upon demand	You will be required to pay us any debit/credit card (processing) fees and/or service (transaction) fees that we charge in connection with debit/credit card transactions. TMC reserves the right to modify the debit/credit card and/or service charge fees from time to time on 30 days’ advance written notice, up to an increase of ten percent (10%) in any twelve-month period.
Liquidated Damages (Branding Agreement)	An amount equal to Licensing Fee payments for a period equal to lesser of 48 months or the remaining term of the Branding Agreement, based on the average monthly Licensing Fee payments payable by you for the preceding 12 months or for a shorter period if the Branding Agreement has not been in effect for 12 months.	Payable upon termination of the Branding Agreement	
Liquidated Damages (Credit Network Agreement)	An amount equal to the lesser of (i) 48 or (ii) the remaining number of months under the term of the agreement, multiplied by \$3,000.	Payable upon termination of the Credit Network Agreement	

### **Notes to table:**

Unless otherwise stated in this Disclosure Document, all fees are imposed by and payable to us or our affiliates and are nonrefundable. All fees are uniformly imposed, except as otherwise provided herein.

<sup>1</sup>You may, but are not required to, participate in any Optional Programs we negotiate. As of the date of this Disclosure Document, we offer the following Optional Programs: Glacier Water

Program, Air/Water Program, and the Lux Bitcoin Program. In connection with participating in an Optional Program, you will share a portion of the Optional Program revenue with us and may be required to enter into a program agreement with us and/or a third-party vendor approved by us.

<sup>2</sup>If insufficient funds are available in your account at the time payment is due, we may charge you an insufficient funds fee ranging from \$50 to \$250, or the maximum legal rate allowed by law, for each insufficient funds payment.

<sup>3</sup>If you fail to pay any amounts due to us under the Branding Agreement by the due date, the payment will be considered late and we may charge you interest on the amount past due at the lesser of 1½ % per month or the maximum legal rate allowed under applicable law, but no more than 18% per annum simple interest. Interest on late payments is non-refundable. A payment will be considered late if: (i) you fail to pay us the amount owed or (ii) if insufficient funds are available in your account to fully pay the amount owed.

<sup>4</sup>You are required to pay us all debit/credit card (processing) fees and/or service (transaction) fees in connection with the processing of your debit/credit card transactions. The table below reflects the current processing and transaction fees associated with the processing of debit/credit card transactions. We reserve the right to modify these fees from time to time upon 30 days' advance written notice, up to an increase of ten percent (10%) in any twelve-month period.

Card Type	Per Transaction Fee	Processing Fee
Visa	\$0.12	1.80%
MasterCard		
Debit		
All Others	\$0.12	3.25%

**ITEM 7  
ESTIMATED INITIAL INVESTMENT**

**YOUR ESTIMATED INITIAL INVESTMENT**

(for new or rebuilt convenience store locations)

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is to be Made
Initial Franchise Fee (Note 1)	\$12,500	Lump Sum	Upon signing Agreement	TMC
Regional In-Store Training Fee	\$1,000 (\$500 per attendee)	Lump Sum	Upon signing Agreement	TMC
Travel and Living Expenses While Training (Note 2)	\$3,500-\$15,500	As Incurred	As Incurred	Airlines, Hotels, Restaurants, Rental Cars or TMC
Real Estate (Note 3)	(Note 3)	(Note 3)	(Note 3)	(Note 3)

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is to be Made
Construction, Remodeling, and Leasehold Improvements (Note 4)	\$850,000-\$1,500,000	As Billed	As Incurred	Contractors, Suppliers or Other Third Parties
Other Site Development Costs (Note 4)	\$40,000-\$100,000	As Incurred	As Incurred	Architects, Engineers and Other Third Parties
Furniture, Fixtures & Equipment	\$400,000-\$800,000	As Billed	As Incurred	Suppliers
EPOS and Computer Systems	\$40,000 - \$50,000	As Incurred	As Incurred	Suppliers
Network Fee (3 months) (Note 5)	\$0 - \$150	EFT Draft	Monthly	TMC
Signs (Note 6)	\$20,000-\$55,000	As Billed	As Incurred	Suppliers
Security Deposits and Licenses and Permits (Note 7)	\$2,000-\$15,000	As Incurred	Prior to Opening	Lessor or Gov't Agencies
Utility Deposits (Note 8)	\$1,500-\$10,000	Lump Sum	Prior to Opening	Utility Companies and Other Service Providers
Vendor Deposits	\$0-\$16,000	Lump Sum	As required by Vendors	Vendors
Merchandise Inventory (Note 9)	\$60,000-\$100,000	As Billed	As Incurred	Third Party Vendors
Professional Fees (Note 10)	\$1,000-\$5,000	As Incurred	As Incurred	Attorneys, Accountants, and Other Professionals
Insurance (Note 11)	\$4,500-\$12,000	As Billed	As Incurred	Insurance Carriers
Grand Opening Costs (Note 12)	\$5,000-\$10,000	As Billed	As Incurred	Suppliers and Vendors
Additional Funds (3 months) (Note 13)	\$10,000-\$20,000	As Billed	As Incurred	Employees, Suppliers, and Vendors
TOTAL (Note 14)	\$1,451,000 - \$2,722,150			

**ESTIMATED INITIAL INVESTMENT**

**YOUR ESTIMATED INITIAL INVESTMENT**

(for convenience store conversions)

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is to be Made
Initial Franchise Fee (Note 1)	\$12,500	Lump Sum	Upon signing Agreement	TMC
Regional In-Store Training Fee	\$1,000 (\$500 per attendee)	Lump Sum	Upon signing Agreement	TMC
Travel and Living Expenses While Training (Note 2)	\$3,500-\$15,500	As Incurred	As Incurred	Airlines, Hotels, Restaurants, Rental Cars or TMC

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is to be Made
Real Estate (Note 3)	(Note 3)	(Note 3)	(Note 3)	(Note 3)
Construction, Remodeling, and Leasehold Improvements (Note 4)	\$50,000-\$500,000	As Billed	As Incurred	Contractors, Suppliers or Other Third Parties
Other Site Development Costs (Note 4)	\$20,000-\$80,000	As Incurred	As Incurred	Architects, Engineers and Other Third Parties
Furniture, Fixtures & Equipment	\$100,000-\$600,000	As Billed	As Incurred	Suppliers
EPOS and Computer Systems	\$40,000 - \$50,000	As Incurred	As Incurred	Suppliers
Network Fee (3 months) (Note 5)	\$0 - \$150	EFT Draft	Monthly	TMC
Signs (Note 6)	\$20,000-\$50,000	As Billed	As Incurred	Suppliers
Security Deposits and Licenses and Permits (Note 7)	\$2,000-\$5,000	As Incurred	Prior to Opening	Lessor or Government Agencies
Utility Deposits (Note 8)	\$1,500-\$3,000	Lump Sum	Prior to Opening	Utility Companies and Other Service Providers
Vendor Deposits	\$0-\$16,000	Lump Sum	As required by Vendors	Vendors
Merchandise Inventory (Note 9)	\$25,000-\$50,000	As Billed	As Incurred	Third Party Vendors
Professional Fees (Note 10)	\$1,000-\$5,000	As Incurred	As Incurred	Attorneys, Accountants, and Other Professionals
Insurance (Note 11)	\$4,500-\$12,000	As Billed	As Incurred	Insurance Carriers
Grand Opening Costs (Note 12)	\$5,000-\$10,000	As Billed	As Incurred	Suppliers and Vendors
Additional Funds (3 months) (Note 13)	\$10,000-\$20,000	As Billed	As Incurred	Employees, Suppliers, and Vendors
TOTAL (Note 14)	\$296,000 - \$1,430,150			

**NOTES:**

If you purchase an existing company-operated Kangaroo Express Store from us or our affiliate, your initial investment will consist of the purchase price that we and you negotiate, plus the cost of any upgrades and renovations we may require you to complete in order to bring the Store into compliance with our then-current Business System standards, which upgrades and renovations you will be required to complete within nine months of your taking possession and control of the Store. The Store must be furnished with sufficient inventory for you to begin operations, which you must purchase from us. The value of this inventory will be calculated using the retail inventory method used in Kangaroo Express operations.

If you are a Multi-Site Operator, the initial investment requirement for your first Kangaroo Express Store is described in the table above and in various notes below. You also will incur additional costs and expenses during the term of the Multiple Site Operator Agreement to open the remaining

number of Kangaroo Express Stores you must develop or convert, as the case may be. Those additional costs of development or conversion may increase over the term of the Multiple Site Operator Agreement, based on inflation and other economic factors.

See Item 10 for a description of the Equipment/Construction Funding program that may be available. We will meet with you to discuss the store development or conversion requirements before you sign the Franchise Agreement or any Multiple Site Operator Agreement.

This initial investment estimate does not include expenses which may be required if you operate a Motor Fuel Business or Branded Business at your Store. If you operate a Motor Fuel Business or Branded Business at your Store, please refer to the charts below for cost estimates.

All payments made to us are non-refundable unless otherwise stated. We do not finance or advance any of your costs unless stated otherwise in this Disclosure Document.

**Note 1** The Initial Franchise Fee you will pay for each Store may range from \$12,500 per Store, if you agree to open only one Store pursuant to a Franchise Agreement, to \$0 per Store, if the Initial Franchise Fee is waived or reduced in connection with the signing of a single store Franchise Agreement after having entered into a Multiple Site Operator Agreement, or a discounted Initial Franchise Fee due to your motor fuel business relationship with us or our affiliate.

If you are a Multi-Site Operator, opening multiple Kangaroo Express Stores pursuant to the terms of a Multiple Site Operator Agreement, the Initial Franchise Fee you will pay for each Store you convert or develop will be \$5,000.

Further, if you are not a Multi-Site Operator, you may pay a reduced Initial Franchise Fee for each Store you open after the first Store consistent with the Multi-Site Operator Initial Franchise Fee Schedule in effect at the time you sign a Franchise Agreement for each such additional Kangaroo Express Store. See Item 5 for how the Initial Franchise Fee is paid and for the conditions under which this fee is partially refundable. We do not finance the Initial Franchise Fee.

If you are renewing an existing Franchise Agreement, we will not charge you an Initial Franchise Fee. Instead, you will pay our then-current Renewal Fee. As of the date of this Disclosure Document our Renewal Fee is \$0. We reserve the right to increase the Renewal Fee in the future. We reserve the right to charge an initial franchise fee for renewals in the future.

**Note 2** You must pay the salaries, fringe benefits, travel costs, and room and board of your manager and any other employees during the time that they attend the initial Training Program, as well as any additional or special training that may be requested or required of you or your managers or employees. If you are a Multi-Site Operator, you, and not TMC, will be responsible for training store managers and other employees who will work in your Stores. Accordingly, if you are a Multi-Site Operator, you are required at all times during the term of each Franchise Agreement executed pursuant to your Minimum Development Schedule to have at least one designated trainer who is qualified to administer TMC's Kangaroo Express Training Program. The cost of training of your designated trainer is beyond your initial investment for your first Store. While we anticipate that the \$2,000 to \$12,000 investment range provided is sufficient to cover the cost of sending your designated trainer through our Training Program, you should also plan on additional training costs for training your store managers and employees for each of your Stores. Further,

while we anticipate that the additional per-Store training costs will be similar to the range provided in this Item 7, these actual costs will depend on a number of factors not in our control, including the geographic locations of you and your store managers and employees, the length of your Training Program, the amount and type of training materials provided, and the compensation paid to your designated trainer.

If you are a Multi-Site Operator, TMC may agree to hold initial training sessions near your Store to reduce your travel costs. In this event, you will be required to pay a fee to TMC ranging from \$2,500 to \$5,000 to cover TMC's expenses for such sessions. This expense is included in the range disclosed in this Item. Our agreement to hold local training sessions near your Store will be based on our current training schedule at the Tempe training facility, the number of stores scheduled to open within a 90-day period and the number of employees scheduled for the training. If we are unable to honor your request, you or your operations manager, and your store managers must travel to the Tempe training facility and successfully complete the full training prior to the Store opening. TMC also may offer local training for individual franchisees. The fee for this training will be the actual costs incurred by TMC plus up to an additional \$200 per participant.

**Note 3** If you do not already own suitable real estate, the land and building for your Store must be purchased or leased. Kangaroo Express Stores currently average approximately 2,350 square feet in size and generally require at least 40,000 square feet of land to adequately accommodate the building, parking lot, easements, etc. The shape and lot dimensions, setbacks, buffer zones, and other local code requirements may result in additional lot area requirements. The cost of purchasing unimproved land will vary depending on location, availability of utilities, and other factors and cannot be estimated by us. See "Security Deposits" listed in the chart above for an estimate of these expenses. On occasion, TMC or one of its affiliates may own or lease the property where your Store is located. Under these circumstances, you will sign a separate lease agreement with us or our affiliates.

**Note 4** Based upon our past experience, the cost estimates for constructing a Kangaroo Express Store are dependent upon factors such as the general cost of building in your location, union or non-union costs, local building code and permit requirements, the size of your Store, the types of materials used to construct your Store, the cost of construction labor, the cost of property, and other similar factors. In addition to construction costs, development costs may be incurred for engineering, architectural, design, real estate, legal, and other professional services. Construction and developmental cost estimates assume that there are no unusual site conditions and that adequate utilities are available at the building pad or adjacent to it.

You must engage one of our designated project management firms to assist you with certain aspects of the development and construction of your Store. Specifically, the third-party management firm will obtain sales area equipment and interior graphics bids, will purchase and/or install, on your behalf, convenience store equipment, prepare plans, check lists and equipment cut sheets, and provide other services to assist you in the development of your Store. You will be responsible for all costs and fees of the third-party management firm, but if you accept Equipment/Construction Funding, we may use a portion of these funds to cover certain costs (as we determine) associated with the use of the third-party management firm.

You will be required to work with TMC or its designee to develop an Auto CAD format "as-built" plan of the Store, which plan must include the interior walls, structural layout and utilities. We

may require you to hire a consultant to prepare the Auto CAD format plan, in which case you will be required to engage the consultant within two weeks of signing the Franchise Agreement. You must pay for all costs associated with the Auto CAD format plan, unless you accept Equipment/Construction Funding, in which case the cost of the Auto CAD format plan will be paid for by the Equipment/Construction Funding.

The estimate contained in this Item 7 includes the cost for the third-party management firm. The cost will vary depending on the condition of the premises. In addition, as previously noted above, if you are converting an existing convenience store or stores, these costs may be reduced dramatically depending upon the condition of your stores.

**Note 5** If you will not offer any motor fuel at the Franchised Location, or if you sign the Motor Fuel Agreement or the Branding Agreement, you will be required to also sign the Credit Network Agreement (attached as Exhibit 6 to the Franchise Agreement) and pay us the then-current monthly Network Fee, in exchange for the use of our electronic point of sale network (“TMC Network”), including the EPOS Credit/Debit Equipment (as defined in the Credit Network Agreement). The amounts included in the table above reflect three months of the current Network Fees.

**Note 6** You will pay for the permitting and the exterior sign fixtures which include our trademark. You will pay for the installation of the sign fixtures and any maintenance associated with these signs. You must purchase or lease all other interior and exterior sign fixtures specified by us. These costs may (as we determine) be paid for out of the Equipment/Construction Funding, but if they are not, you will be solely responsible for these costs.

**Note 7** You may be required to pay a security deposit under your real estate lease with a third party and other deposits for utilities and insurance premiums which may or may not be refundable. These amounts can vary significantly in different areas, and you should verify this estimate with local authorities. It is your responsibility to confirm that all of the specific deposits required for your Store are paid.

**Note 8** Deposits for utility services are typically required at the time the service is applied for and may or may not be refundable. It is your responsibility to confirm that all of the specific deposits required for your Store are paid.

**Note 9** The estimated range of the cost for the inventory for a new Store is from \$60,000 - \$100,000. You must purchase inventory as specified by us. If you already own a convenience store and are converting it to a Kangaroo Express Store, you may be required to purchase additional inventory so that the inventory in your Store is comparable to the inventory in other Kangaroo Express Stores. The estimated range of the cost for the inventory for a c-store conversion is from \$25,000 - \$50,000. Except in the limited circumstances described above pertaining to the purchase of an existing company-operated Kangaroo Express, you will purchase your inventory from a third party vendor.

**Note 10** You may find it necessary to retain an attorney to review the Franchise Agreement or Multiple Site Operator Agreement if applicable, or to assist in forming a corporation, partnership, or limited liability company. You may also want to retain an accountant for advice in establishing and operating your business and filing the necessary tax forms and returns.

**Note 11** You must obtain and maintain at your expense insurance coverage for your Store as required in the Franchise Agreement. The cost of insurance varies, depending upon the insurance company you select, the location of your Store, value of equipment and improvements, number of employees, and other factors. You must name us and our Affiliates as “Additional Insureds” on all insurance policies except Worker’s Compensation and Property Insurance, where applicable.

**Note 12** You must have a grand opening celebration at your Store. The Business Systems Manuals contain a grand opening guide to assist you. We will also provide a grand opening materials package to you. If you contribute Tier II Promotional Funds, you will be reimbursed (from the Promotional Fund) for pre-approved expenditures in the amount of \$0.50 for each \$1.00 you spend, up to a maximum reimbursement of \$2,000.

**Note 13** This amount represents the range of your initial start-up expenses over the first 3 months of operation and includes payroll costs, but does not include any salary for one Store Manager (or designated trainer if you are a Multi-Site Operator), to the extent these costs are not covered by sales revenues. We estimate that the amount given will be sufficient to cover ongoing expenses for the start-up phase of the business, which we calculate to be three months. These figures are estimates only and there is no assurance or guarantee that you will not have additional expenses during this start-up phase or after. Your costs will depend upon factors such as your management skill, experience, and business acumen; local economic conditions; the demand for convenience store goods and services in your area; the prevailing wage rate; competition; and the sales level reached during the initial period.

**Note 14** The estimates provided in the chart above are based upon a freestanding, full-service new Kangaroo Express Store. We have relied upon our collective experience in opening other convenience stores during the past 25+ years when preparing these figures. Please note that the total amount of your initial investment does not include the cost of acquiring real estate.

### **YOUR ESTIMATED INITIAL INVESTMENT**

(for new or rebuilt motor fuel businesses)

<b>Type of Expenditure</b>	<b>Amount</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment is to be Made</b>
Real Estate (Note 1)	(Note 1)	(Note 1)	(Note 1)	(Note 1)
Construction, Remodeling, and Leasehold Improvements (Note 2)	\$1,200,000 - \$3,800,000	As Billed	As Incurred	Contractors, Suppliers or Other Third Parties
Other Site Development Costs (Note 2)	\$135,000 - \$250,000	As Billed	As Incurred	Architects, Engineers and Other Third Parties
Equipment (Note 3)	\$500,000 - \$1,200,000	As Billed	As Incurred	Suppliers
EPOS and Computer Systems	\$51,000-\$65,000	As Incurred	As Incurred	Suppliers
Network Fee (3 months) (Note 4)	\$150	EFT Draft	Monthly	TMC
Signs (Note 5)	\$50,000 – \$120,000	As Billed	As Incurred	Suppliers

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is to be Made
Security Deposits and Licenses and Permits (Note 6)	(Note 6)	(Note 6)	(Note 6)	(Note 6)
Utility Deposits (Note 7)	(Note 7)	(Note 7)	(Note 7)	(Note 7)
Inventory (Note 8)	\$40,000 - \$120,000	EFT Draft	Upon delivery	TMC
Insurance (Note 9)	\$3,000-\$12,000	As Billed	As required by Insurance Carrier or Provider	Insurance Carrier
Fuel Security Deposit (Note 10)	\$20,000 - \$50,000	Lump Sum	Upon signing Motor Fuel Agreement	TMC
TOTAL (Note 11)	\$1,999,150 - \$5,617,150			

### YOUR ESTIMATED INITIAL INVESTMENT

(for motor fuel conversions)

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is to be Made
Real Estate (Note 1)	(Note 1)	(Note 1)	(Note 1)	(Note 1)
Construction, Remodeling, and Leasehold Improvements (Note 2)	\$100,000 – \$650,000	As Billed	As Incurred	Contractors, Suppliers or Other Third Parties
Other Site Development Costs (Note 2)	\$20,000 - \$80,000	As Billed	As Incurred	Architects, Engineers and Other Third Parties
Equipment (Note 3)	\$300,000 - \$1,100,000	As Billed	As Incurred	Suppliers
EPOS and Computer Systems	\$51,000 - \$65,000	As Incurred	As Incurred	Suppliers
Network Fee (3 months) (Note 4)	\$150	EFT Draft	Monthly	TMC
Signs (Note 5)	\$15,000 - \$35,000	As Billed	As Incurred	Suppliers
Security Deposits and Licenses and Permits (Note 6)	(Note 6)	(Note 6)	(Note 6)	(Note 6)
Utility Deposits (Note 7)	(Note 7)	(Note 7)	(Note 7)	(Note 7)
Inventory (Note 8)	\$40,000 - \$120,000	EFT Draft	Upon delivery	TMC
Insurance (Note 9)	\$3,000-\$12,000	As Billed	As required by Insurance Carrier or Provider	Insurance Carrier
Fuel Security Deposit (Note 10)	\$20,000 - \$50,000	Lump Sum	Upon signing Motor Fuel Agreement	TMC
TOTAL (Note 11)	\$549,150 - \$2,112,150			

**Note 1** The cost of purchasing or leasing suitable real estate will vary depending on location, availability of utilities, and other factors and cannot be estimated by us. On occasion, TMC or one of its affiliates may own or lease the property where your Motor Fuel Business is located. Under these circumstances, you will sign a separate lease agreement with us or our affiliates.

**Note 2** Based upon our past experience, the cost estimates for constructing a Kangaroo Express forecourt is dependent upon factors such as the general cost of building in your location, the size of your property, the cost of construction labor, the cost of property, the extent of the work needed and other similar factors. In addition to construction costs, development costs may be incurred for engineering, architectural, design, real estate, legal, and other professional services. Construction and developmental cost estimates assume that there are no unusual site conditions and that adequate utilities are available at the building pad or adjacent to it.

The cost will vary depending on the condition of the premises. In addition, if you are converting an existing gasoline station, these costs may be reduced dramatically depending upon the condition of your property.

**Note 3** The cost of equipment will depend primarily on the type and size of the canopy, the condition, model, and number of MPDs and the existence and condition of Underground Storage Tanks.

**Note 4** You are required to pay us a monthly Network Fee in exchange for the use of the TMC Network, our electronic point of sale network, including the EPOS Credit/Debit Equipment. The amount included in the table above reflects 3 months of the Network Fees.

**Note 5** You will pay for the permitting and the exterior sign fixtures which include our trademark. You will pay for the installation of the sign fixtures and any maintenance associated with these signs. We will own the signs containing our trademark, and you will have no ownership or other possessory interest in them. You must purchase or lease all exterior sign fixtures specified by us. In addition to our trademark signs, you will be required to purchase, install and maintain price signs for your location.

**Note 6** You may be required to pay a security deposit under your real estate lease with us or a third party and other deposits for utilities and insurance premiums which may or may not be refundable. These amounts can vary significantly in different areas, and you should verify this estimate with local authorities. It is your responsibility to confirm that all of the specific deposits required for your Store are paid.

**Note 7** Deposits for utility services are typically required at the time the service is applied for and may or may not be refundable. It is your responsibility to confirm that all of the specific deposits required for your location are paid.

**Note 8** The estimated range of the cost for the inventory for your forecourt will depend on the size of your storage tanks and the cost per gallon at the time the product is delivered. The price per gallon of motor fuel and diesel will be our price at the time of delivery. The price for motor fuel and diesel will also include our then-current cost for transporting the motor fuel and diesel to you. The transportation cost for motor fuel will be based on an 8,500-gallon load and the transportation

cost for diesel will be based on a 7,500-gallon load. We reserve the right to charge you more than our cost for the motor fuel you are required to purchase from us.

**Note 9** You must obtain and maintain at your expense insurance coverage for your location as required in the Motor Fuel Agreement. The cost of insurance varies, depending upon the insurance company you select, the location of your facility, value of equipment and improvements, number of employees, and other factors. You must name us and our Affiliates as “Additional Insureds” on all insurance policies except Worker’s Compensation and Property Insurance, where applicable. The low end of the investment noted in Item 7 above assumes you have obtained the required insurance coverage for your Store.

**Note 10** You must pay us the Security Deposit when you sign the Security Deposit Agreement. The Security Deposit you will be required to pay will depend on a number of factors, including the size of the storage tanks on your premises, expected through-put and your credit score. At our option, the Security Deposit may be paid by our debiting your account in the amount of \$0.010 per gallon of motor fuel purchased until the full amount of the Security Deposit is paid. The Security Deposit is paid to secure your payment of all sums of money due under, and performance and observance of all the terms, covenants and conditions contained in the Motor Fuel Agreement. If you fail to timely pay any amount due and owing under the Motor Fuel Agreement, we may draw upon the Security Deposit and apply the funds toward the payment of an amount due and owing to us. If we draw upon the Security Deposit, you must immediately pay us an amount sufficient to restore the Security Deposit to its prior level. Upon termination, expiration or non-renewal of the Motor Fuel Agreement, we may also draw upon the Security Deposit to satisfy on any past due amounts, loss, damage, injury or liability caused by your failure to perform any condition, covenant or term of or make any payment under the Motor Fuel Agreement. The remaining balance of the Security Deposit Account will then be refunded to you. If the premises where your motor Fuel Business is located are owned by us or our affiliate, we may reduce or waive the amount of the Security Deposit.

**Note 11** The estimates provided in the charts above are based upon the cost of adding Kangaroo Express fuel to an existing Kangaroo Express Store, converting another fuel brand to Kangaroo Express at an existing Kangaroo Express Store, or adding Kangaroo Express fuel while building or converting a new Kangaroo Express Store. We relied upon our collective experience in building company operated Kangaroo Express forecourts during the past 10 years when preparing these figures. Please note that the total amount of your initial investment does not include the cost of acquiring real estate.

## YOUR ESTIMATED INITIAL INVESTMENT

(for Branded Business)

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is to be Made
Real Estate (Note 1)	(Note 1)	(Note 1)	(Note 1)	(Note 1)
Branding Costs / Signs (Note 2)	\$5,000 - \$85,000	As Billed	As Incurred	Contractors, Suppliers or Other Third Parties
EPOS and Computer Systems	\$0 - \$22,000 per register	As Incurred	As Incurred	Suppliers

Type of Expenditure	Amount	Method of Payment	When Due	To Whom Payment is to be Made
Network Fee (3 months) (Note 3)	\$150	EFT Draft	Monthly	TMC
Security Deposits and Licenses and Permits (Note 4)	(Note 4)	(Note 4)	(Note 4)	(Note 4)
Utility Deposits (Note 5)	(Note 5)	(Note 5)	(Note 5)	(Note 5)
Insurance (Note 6)	\$3,000 - \$12,000	As Billed	As required by Insurance Carrier or Provider	Insurance Carrier
TOTAL (Note 7)	\$8,150 - \$119,150			

**Note 1** The cost of purchasing or leasing suitable real estate will vary depending on location, availability of utilities, and other factors and cannot be estimated by us. On occasion, TMC or one of its affiliates may own or lease the property where your Branded Business is located. Under these circumstances, you will sign a separate lease agreement with us or our affiliates.

**Note 2** You will pay for the permitting and the exterior sign fixtures which include our trademark. You will pay for the installation of the sign fixtures and any maintenance associated with these signs. We will own the signs containing our trademark, and you will have no ownership or other possessory interest in them. You must purchase or lease all exterior sign fixtures specified by us. In addition to our trademark signs, you will be required to purchase, install and maintain price signs for your location. The cost will vary depending on the condition of the premises. In addition, if you are converting an existing gasoline station, these costs may be reduced dramatically depending upon the condition of your property.

**Note 3** You are required to pay us a monthly Network Fee in exchange for the use of the TMC Network, including the EPOS Credit/Debit Equipment. The amount included in the table above reflects 3 months of the Network Fees.

**Note 4** You may be required to pay a security deposit under your real estate lease with us or a third party and other deposits for utilities and insurance premiums which may or may not be refundable. These amounts can vary significantly in different areas, and you should verify this estimate with local authorities. It is your responsibility to confirm that all of the specific deposits required for your Store are paid.

**Note 5** Deposits for utility services are typically required at the time the service is applied for and may or may not be refundable. It is your responsibility to confirm that all of the specific deposits required for your location are paid.

**Note 6** You must obtain and maintain at your expense insurance coverage for your location as required in the Branding Agreement. The cost of insurance varies, depending upon the insurance company you select, the location of your facility, value of equipment and improvements, number of employees, and other factors. You must name us and our Affiliates as “Additional Insureds” on all insurance policies except Worker’s Compensation and Property Insurance, where applicable. The low end of the investment noted in Item 7 above assumes you have obtained the required insurance coverage for your Store.

**Note 7** The estimates provided in the charts above are based upon the cost of branding a location under the Kangaroo Express trademarks. We relied upon our collective experience in branding Kangaroo Express forecourts during the past 10 years when preparing these figures. Please note that the total amount of your initial investment does not include the cost of acquiring real estate.

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

### Kangaroo Express Store

You must comply with our quality standards and specifications described in the Business Systems Manuals for furnishings, fixtures, equipment (including computer hardware and software), operating supplies, food and beverages, signs, marketing and promotional materials, and other products and services offered at your Store, and for the construction, renovation, maintenance, and repair of your Store. We will provide you with a list of approved sources of merchandise, supplies, fixtures, equipment, signs, and uniforms necessary for the construction and operation of your Store. The cost of required furnishings, fixtures, signs, equipment and other items purchased according to our specifications could reasonably represent more than 50% of your total purchases and leases in connection with establishment of your Store and more than 50% of your purchases and leases in operating the Store.

You must purchase approved products and services that meet our current standards and specifications as established in the Business Systems Manuals or otherwise in writing – including all Kangaroo Express proprietary products, if any. Carrying these proprietary products ensures a consistent brand presence and meets our consumers’ expectations of the brand. TMC reserves the right to periodically update and alter these specifications and standards and to add to, or delete from, the list of products and services approved for sale or use in Kangaroo Express Stores. As further described below, you may be required to purchase many products from a primary source of supply as we designate under our negotiated arrangements with suppliers and service providers. Otherwise, you may purchase approved products or services from sources who demonstrate to our continuing reasonable satisfaction the ability to meet our standards and specifications, who possess adequate quality controls, and the capacity to meet your needs promptly and reliably, and who have been approved by us in advance in writing. If you wish to have a supplier or service provider designated as an “approved” supplier, you may submit information about the supplier and its relevant products or services to us for review. We must be permitted to inspect the supplier’s facilities and will require samples to be tested and evaluated either by an independent testing facility or other facility designated by us. Our review typically will be completed within 60 days. Approved suppliers will not be required to make payments to us in order to deal with any of our franchisees.

You will be required to engage the services of one of our designated project management firms to assist you in the development and construction of your Store, and you will be required to work with such firm and TMC or its affiliate to develop a marketing floor plan that will show key equipment, gondolas, backbars, and cabinetry. You will also be required to work with TMC or its designee to develop an Auto CAD format plan of the Store, which will include the interior walls, structural layout and utilities. You must pay for all costs associated with the marketing floor plan and the Auto CAD format plan, unless you accept Equipment/Construction Funding, in which case

the cost of the Auto CAD format plan and certain of the costs (as determined by us) of the marketing floor plan will be paid for by the Equipment/Construction Funding.

As of the date of this Disclosure Document, some TMC Franchise Corporation officers own an interest, including stock ownership, in the following companies that supply products or services to Kangaroo Express convenience store franchisees: ConocoPhillips, Coca-Cola and Philip Morris. Other than the companies just identified, no officers own an interest in our convenience store suppliers.

Periodically, we may negotiate purchase arrangements with certain suppliers and service providers for our benefit and/or the benefit of convenience store franchisees. However, access to such suppliers and service providers is not guaranteed, and it is possible that such suppliers and service providers will be unable or unwilling to deliver products to your store. Periodically, we may also receive consideration in the form of discounts, rebates, or marketing allowances on purchases that you make from these suppliers and service providers for services rendered, products purchased or rights licensed. We may keep such consideration we receive from these suppliers or service providers, or we may fund costs associated with advertising and promotions, or we may distribute such allowances to you in such amounts and allocation methods as we deem appropriate. We may designate a primary source or sources of supply for merchandise, goods, and services, and depending on geography that may be us or any of our affiliates. As of the date of this Disclosure Document, the primary suppliers have agreed to make the merchandise and products they carry, and the services they provide to Kangaroo Express Stores, available to TMC's franchisees. Our approved primary suppliers typically deliver approximately 50% of the merchandise recommended for sale at Kangaroo Express Stores, and you must purchase this merchandise from the primary supplier that serves the region in which your Store is located. The merchandise purchased from the primary suppliers includes grocery, candy, cigarettes, tobacco, proprietary items, food service items and supplies. The balance of the merchandise such as beverages, periodicals, baked goods, snack items and dairy products is received by direct delivery from the product manufacturer or distributor. Use of our designated primary source and other recommended vendors may facilitate the payment of advertising and promotional allowances. From time to time, we have one or more preferred vendors for fountain drinks, and your participation will be required in order for you to receive rebates and fountain equipment reimbursements available from fountain vendors and to provide for consistent product availability at all Kangaroo Express Stores.

When you purchase your merchandise and goods or receive services from our approved primary supplier, you will contract directly with our approved primary supplier and will be solely responsible for payment to our approved primary supplier for your purchases. TMC will not be a party to any agreement between you and our approved primary supplier and will not guarantee any payments to our approved primary supplier on your behalf. You will pay the then-current price in effect for all purchases you make from us, our affiliate or any third-party vendor we designate.

We may also periodically negotiate special promotional arrangements with suppliers for the benefit of the system, and you may be required to participate in the promotions designated by us. We may receive certain items or amounts of money from vendors as consideration for participating in national promotions based upon their terms. We may distribute any monies or items received from participating in national promotions on the suppliers' terms to participating franchisees in accordance with national marketing programs that you may enroll in from time to

time. We may also use national promotions to create and develop national advertising strategies designed to promote the Kangaroo Express brand. Monies to be received by us or suppliers from national promotions will be negotiated and will vary depending upon the type of promotion and supplier involved. Not all promotions that may be available to company-operated Kangaroo Express Stores will be available to franchised Kangaroo Express Stores.

We and you receive preferred pricing from certain designated suppliers based on the volume of purchases made by both company-operated and franchised Kangaroo Express Stores. This benefit comes in the form of off-invoice discounts as well as other rebates based on the level of purchases or sales of certain products and/or compliance with the requirements of vendor programs. For example, certain vendor programs may require compliance with prescribed store schematics or product display specifications. We process rebates for certain designated and approved suppliers. The time between the date of purchase and the date you receive the rebate can vary from 4 to 12 months or longer, depending on the supplier. Because of the time involved in the rebate process and reliance on vendors to process payments, you may not receive any rebates after you open your Store for the first 4 months and may not receive full rebates for up to 9 months following the opening of your Store. Per our current policy, which we may change from time to time, at the time the Franchise Agreement reaches the end of its term, we collect and credit you for all rebates paid to TMC by vendors on your behalf for a period of 6 months. If you elect to transfer the Franchise Agreement or your rights thereunder (with our approval and consent), you and the person/entity to whom you transfer the Franchise Agreement or your rights must make arrangements with respect to rebates earned and paid. Our current policy is to continue to credit rebates we receive through the end of the calendar month in which the transfer is completed (and such amounts are normally paid on the 25<sup>th</sup> of the following month), minus any amounts you owe to us, to your account, irrespective of which party operated the store when the rebate was earned. Starting on the first day of the month subsequent to the transfer, all rebates we receive will begin to be credited to the new franchisee-transferee. If your Franchise Agreement is terminated for any reason prior to the end of term (10 years from the date the Store opens as a Kangaroo Express Store under the agreement), TMC will pay to you only those rebates that have been paid to TMC by the vendor prior to such termination. Cigarette rebates are received by franchisees directly from the tobacco companies and are not processed by TMC. The particular benefit you may receive from these rebate programs will depend entirely on your compliance with vendor program requirements and/or the level of purchases from vendors offering rebates or the level of your sales of their products at your Store. These discounts will vary from year to year. You should understand that, from time to time, suppliers may reduce the cost of the product at the time of purchase rather than providing rebates at a later date. This may reduce the overall total of rebates you receive because the cost of the product at the time of purchase is reduced. You should also understand that you may not be eligible to receive all discounts and rebates that company-operated stores receive. If you are a Multi-Site Operator, you, rather than TMC, may be responsible for administering and collecting manufacturer/supplier marketing, promotional or other similar allowances that you are entitled to receive under Section 6.6 of the Franchise Agreement.

During the year ended April 27, 2025, we derived revenue of \$3,819,203 (i.e., 5.35%) (included in interest and other income on our consolidated financial statements) of our total revenue of \$71,167,087 from required purchases or leases by convenience store franchisees (i.e., Kangaroo Express franchisees as well as franchisees operating under the other brands TMC franchises as disclosed in Item 1). We and our affiliates currently are not an approved or required supplier of products or services for purchase by you for use in operation of your Store. We and

our affiliates do, however, reserve the right in the future to become a provider of products and services.

There currently are no purchasing or distribution cooperatives. We may negotiate purchase arrangements with suppliers (including price terms), for the benefit of the convenience store Business System. We do not provide material benefits to you (for example, renewal or granting additional franchises) based on your purchase of particular products or services or use of particular suppliers.

If you will occupy your Store under a lease negotiated by you with a third party, you must submit the lease to us for prior written approval. Our approval may be conditioned on the following terms and conditions appearing in the lease:

(1) The initial term, or initial term with renewal terms, must be at least 10 years, or the term of the Franchise Agreement, whichever is longer.

(2) The Lessor consents to your use of the Marks and signs as required for a Kangaroo Express franchise, and to your operation of a convenience store on the premises.

(3) You are prohibited from subleasing or assigning all or part of the occupancy rights or extending or renewing the lease without our prior written consent.

(4) The Lessor must agree to provide to us copies of notices of default and any material breaches given to you under the lease.

(5) We have the right to enter the premises to make necessary modifications to protect the Marks or the Business System or to cure any default under the Franchise Agreement or the lease.

(6) We (or someone we designate) have the option, upon default, expiration or termination of the Franchise Agreement, and upon notice to the lessor, to assume your rights under the lease, including the right to assign or sublease. You must furnish us with a copy of any signed lease within 10 days after it is signed.

(7) If you lose your lease for any reason, including your decision not to enter into a new term, before the end of the 10-year term of your Franchise Agreement, you will be responsible for the payment to TMC of all liquidated damages due under your Franchise Agreement, and the repayment of any unamortized Equipment/Construction Funding, if provided to you by TMC.

You must obtain our consent to all plans and specifications before beginning construction or renovation of your Store. Our consent will be based on the criteria described in the Business Systems Manuals and/or other criteria we deem relevant. Any consent given by us to any plans and specifications for your Store shall not be construed as a recommendation, guarantee, endorsement, an assurance or warranty that: (a) the site will be a success, or (b) the plans or specifications will make the Store compliant with governmental regulations, including without limitation the Americans With Disabilities Act.

In connection with operating your Kangaroo Express Store, you must enter into the Software Agreement with us, an affiliate of ours or a third party we designate, which will cover

the electronic point of sale equipment, back-office system, and any other computer system(s) we deem appropriate, to be used at your Kangaroo Express Store. (A copy of the Software Agreement is attached as Exhibit 2 to the Franchise Agreement.) Under the Software Agreement you must maintain and service the equipment in accordance with our specifications and in accordance with any manuals relating to the equipment. You may be required to enter into a separate agreement with a third party we designate covering the use and maintenance of the systems required for your Store, including the electronic point of sale system, back office system, and/or any other computer system or communication software we deem necessary to run a Kangaroo Express Store, or to collect data from your Store. We currently require you to use SSCS as your back office system.

If you will not offer any fuel for sale at the Franchised Location, or if you will execute the Motor Fuel Agreement or the Branding Agreement, you will be required to utilize the TMC Network, our electronic point of sale network, and, in connection therewith, purchase designated back-office system, license designated software and firmware and purchase other related computer equipment that we designate. In connection therewith, you must sign the Credit Network Agreement which sets forth the terms and conditions under which you will utilize the TMC Network. You will be required to pay us a monthly Network Fee in exchange for the right to use the TMC Network. The monthly Network Fee you will be required to pay will be our then-current Network Fee, which as of the date of this Disclosure Document is \$50 per month. We reserve the right to modify the Network Fee upon 30 days' advance written notice.

The Franchise Agreement requires you to maintain certain types and minimum amounts of insurance coverage for your Store. You must maintain Commercial General Liability Coverage with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate limit; Liquor Liability with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate limit; Automobile Liability Coverage with minimum limits of \$1,000,000 per occurrence; and, Commercial Property Insurance (an all risk full replacement policy). In addition, you must maintain Worker's Compensation Insurance with statutory limits; Employers Liability with a minimum of \$500,000 per occurrence; Umbrella or Excess Insurance with a minimum of \$1,000,000 per occurrence; and any other insurance required by law. If you sell motor fuel, you must, at all times, comply with all Federal, State and local laws applicable to the ownership and operation of commercial underground storage tanks ("USTs"), including but not limited to requirements to maintain financial assurance for the USTs. The financial assurance obligation may be satisfied through participation in state administered UST funds, or where no such UST funds are applicable or available, then commercial UST insurance shall be maintained in accordance with applicable financial assurance requirements. If you elect to maintain financial assurance through another means (e.g., self-insurance or standby trust), you must provide evidence of same to us. You will also be required to waive Rights of Subrogation for Worker's Compensation and Employers Liability. We do not represent that the prescribed levels of coverage will sufficiently insure you against all risks associated with the operation of a convenience store. The insurers must be rated A- VIII or better in A.M. "Best's Insurance Guide," and the policy must name us, our Parent and affiliated companies as additional insureds and provide that the same advance notice of cancellation or adverse modifications be given to us as is given to you. If you are a Multi-Site Operator, these insurance coverage limits and related requirements apply to each individual Kangaroo Express Store that you develop or convert under a Multiple Site Operator Agreement.

You must participate in any loyalty programs and other marketing and promotional initiatives that we may from time to time establish. We may designate a single supplier for any of these programs or initiatives. You may be required to purchase equipment, supplies and/or other materials to participate in the programs. You must be in compliance with any rules and participation criteria applicable to these programs. We have the right to modify the participation criteria or discontinue these initiatives at any time upon written notice to you. See also Item 11.

### Motor Fuel Business

We or our affiliates are currently the only approved supplier of motor fuel. We reserve the right to require you to purchase additional products or services from us or our affiliates in the future. You must purchase the quantities of motor fuel from us or our affiliate as outlined in the Commodity Schedule attached to your Motor Fuel Agreement. The Commodity Schedule will identify both the quantity of motor fuel you are required to purchase and the pricing terms. If you purchase less than a full truckload of motor fuel when delivered, we may require you to pay us a Motor Fuel Pass-Through Fee.

You also must utilize the TMC Network, our electronic point of sale network, and, in connection therewith, purchase a designated back-office system, license designated software and firmware and purchase other computer equipment that we designate. In connection therewith, you must sign the Credit Network Agreement which sets forth the terms and conditions under which you will utilize the TMC Network. You will be required to pay us a monthly Network Fee in exchange for the right to use the TMC Network. The monthly Network Fee you will be required to pay will be our then-current Network Fee, which as of the date of this Disclosure Document is \$50 per month. We reserve the right to modify the Network Fee upon 30 days' advance written notice.

We will require you to work with a third-party management firm in connection with the construction and development of your forecourt. The third-party management firm we designate will depend on the geographic location of your Motor Fuel Business. A list of the third-party management firms we currently use is included in our Business Systems Manuals and may be revised or changed from time to time.

You must purchase all trademarked items and signage from one of our approved sources. We will provide you with a list of approved sources of trademarked items and signage.

Other than motor fuel, the TMC Network (including related software, firmware and equipment), trademarked items and signage, you may purchase any supplies, fixtures, equipment and signs for your Motor Fuel Business from any source. You will pay the then-current price in effect for all purchases you make from us, our affiliate or any third-party vendor we designate.

The cost of products, services or other items purchased according to our specifications could reasonably represent more than 50% of your total purchases and leases in connection with establishment of your Motor Fuel Business and more than 50% of your purchases and leases in operating the Motor Fuel Business.

Because we supply motor fuel to our Motor Fuel franchisees, our officers own an interest in a company that supplies products or services to Motor Fuel franchisees – TMC Franchise

Corporation. Other than our officers' ownership in us, no officers own an interest in any of our other motor fuel business suppliers.

You will purchase all products and services from us at our then-current fee. We reserve the right to charge you more than our cost for these products and services in selling or supplying these products and services to you. During the year ended April 27, 2025, we derived revenue from the sale of motor fuel to our franchisees in the amount of \$4,205,466 (5.9%) of our total revenue of \$71,167,087. As of the date of this Disclosure Document, we do not receive any rebates or other consideration based upon the products or services you purchase or lease from a third party for your Motor Fuel Business, but we reserve the right to do so in the future.

There currently are no purchasing or distribution cooperatives for the Motor Fuel Business. We may negotiate purchase arrangement with suppliers (including price terms), for the benefit of the Motor Fuel System. We do not provide material benefits to you (for example, renewal or granting additional franchises) based on your purchase of particular products or services or use of particular suppliers.

The Motor Fuel Agreement requires you to maintain certain types and minimum amounts of insurance coverage for your Motor Fuel Business. You must maintain: (i) Comprehensive General Liability Insurance covering the premises, all operations at the premises, products completed operations liability, products liability, contractual liability, fire, explosion and collapse liability, as well as coverage on all contractor's equipment (other than motor vehicles licensed for highway use) owned, hired, or used in connection with the Motor Fuel Business, bodily injury, and property damage, with minimum limits of at least \$1,000,000 per occurrence, and an aggregate coverage of no less than \$2,000,000; (ii) if you operate, or permit the operation of, a service bay and/or car wash on the premises, Legal Liability Insurance covering fire, theft or collision, with a minimum limit of \$500,000 per occurrence and coverage in the general aggregate amount of no less than \$1,000,000; (iii) Automobile Liability Insurance, covering all owned, hired or otherwise operated non-owned automobiles, for death of or injury to any one person and liabilities for loss of or damage to property resulting from any one accident with a combined single limit of not less than \$1,000,000 per occurrence, including MCS 90 endorsement or other acceptable evidence of financial responsibility as required by the Motor Carrier Act of 1980 and the Pollution Liability Broadened Coverage endorsement; (iv) Workers Compensation Insurance as required by law; (v) Employer's Liability Insurance against common law liability, in the absence of statutory liability, for employee bodily injury arising out of the master-servant relationship with a coverage limit of the greater of such amount required by law or \$500,000 per occurrence; and (vi) environmental pollution/impairment insurance coverage in an amount of at least \$1,000,000 on a continuous and uninterrupted basis insuring you for all environmental liabilities arising out of, but not limited to, the storage, handling, dispensing, and/or sale of motor fuel products and lubricants at the premises, and/or the ownership and operation of your business at the premises. Such environmental/pollution impairment coverage shall extend at least two (2) years beyond the expiration, termination, or nonrenewal of the Motor Fuel Agreement. You may meet the requirements for environmental pollution/impairment coverage for underground storage tanks by participating in the federal Environmental Protection Agency ("EPA") approved state financial assurance fund or other EPA approved method to demonstrate financial responsibility or by satisfying any of the other financial assurance test requirements of the EPA's Financial Responsibility Regulations (40 CFR Part 280).

## Branded Business

You must utilize the TMC Network, our electronic point of sale network, and, in connection therewith, purchase designated back-office system, license designated software and firmware, and purchase other computer equipment we designate. In connection therewith, you must sign the Credit Network Agreement, which sets forth the terms and conditions under which you will utilize the TMC Network. You will be required to pay us a monthly Network Fee in exchange for the right to use the TMC Network. The monthly Network Fee you will be required to pay will be our then-current Network Fee, which as of the date of this Disclosure Document is \$50 per month. We reserve the right to modify the Network Fee upon 30 days' advance written notice.

You must purchase all trademarked items and signage from one of our approved sources. We will provide you with a list of approved sources of trademarked items and signage.

Other than the TMC Network (including related software, firmware and equipment), trademarked items and signage, you may purchase any supplies, fixtures, equipment and signs from any source. You will pay the then-current price in effect for all purchases you make from us, our affiliate or any third-party vendor we designate.

The cost of products, services or other items purchased according to our specifications could reasonably represent more than 50% of your total purchases and leases in connection with establishment of your Branded Business and more than 50% of your purchases and leases in operating the Branded Business.

None of our officers own an interest in any of our branded business suppliers.

You will purchase all products and services from us at our then-current fee. We reserve the right to charge you more than our cost for these products and services in selling or supplying these products and services to you.

There currently are no purchasing or distribution cooperatives for the Branded Business. We may negotiate purchase arrangements with suppliers (including price terms), for the benefit of the Branded System. We do not provide material benefits to you (for example, renewal or granting additional franchises) based on your purchase of particular products or services or use of particular suppliers.

The Branding Agreement requires you to maintain certain types and minimum amounts of insurance coverage for your Branded Business. You must maintain: (i) Comprehensive General Liability Insurance covering the Branded Business premises, all operations at the premises, products completed operations liability, products liability, contractual liability, fire, explosion and collapse liability, as well as coverage on all contractor's equipment (other than motor vehicles licensed for highway use) owned, hired, or used in connection with the Branded Business, bodily injury, and property damage, with minimum limits of at least \$1,000,000 per occurrence, and an aggregate coverage of no less than \$2,000,000; (ii) Workers Compensation Insurance as required by law; (iii) Employer's Liability Insurance against common law liability, in the absence of statutory liability, for employee bodily injury arising out of the master-servant relationship with a coverage limit of the greater of such amount required by law or \$500,000 per occurrence; and (iv)

environmental pollution/impairment insurance coverage in an amount of at least \$1,000,000 on a continuous and uninterrupted basis insuring you for all environmental liabilities arising out of, but not limited to, the storage, handling, dispensing, and/or sale of motor fuel products and lubricants at the Store premises, and/or the ownership and operation of the Branded Business at the premises. Such environmental/pollution impairment coverage shall extend at least two (2) years beyond the expiration, termination, or nonrenewal of the Branding Agreement. You may meet the requirements for environmental pollution/impairment coverage for underground storage tanks by participating in the federal Environmental Protection Agency (“EPA”) approved state financial assurance fund or other EPA approved method to demonstrate financial responsibility or by satisfying any of the other financial assurance test requirements of the EPA’s Financial Responsibility Regulations (40 CFR Part 280).

Any required standards exist to protect our interests in the Business System, the Motor Fuel System and/or the Branded System, as applicable) and the Marks and not for the purpose of establishing any control or duty to take control over those matters that are reserved to you. The required standards generally will be set forth in the Business Systems Manuals or other written materials and communications. The Business Systems Manuals also will include guidelines or recommendations in addition to required standards. In some instances, the required standards will include recommendations or guidelines to meet the required standards. You may follow the recommendations or guidelines or some other suitable alternative; provided you meet and comply with the required standards. In other instances, no suitable alternative may exist. In order to protect our interests in the Business System, the Motor Fuel System, the Branded System and the Marks, we reserve the right to determine if you are meeting a required standard and whether an alternative is suitable to any recommendations or guidelines.

In addition, we may supply to a Kangaroo Express Store third-party motor fuel under the marks of a third-party source. Such a supply arrangement is not a franchise grant, is merely a fuel supply agreement with no corresponding grant of rights to use any Kangaroo Express marks or business system, is specific to each third-party source of motor fuel and is therefore not described in detail in this Disclosure Document.

## 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.**

Obligation	Section in Agreement	Disclosure Document Item
a. Site selection and acquisition/lease	Article 7 of Franchise Agreement Article 5 of Multiple Site Operator Agreement	Items 5, 8 & 11
b. Pre-Opening purchases/leases	Sections 7.1, 7.2, 7.3, 7.4, 7.7, 8.1, 8.2 and 8.3 of Franchise Agreement Sections 1 & 2 of Software Agreement Sections 2, 3 & 4 of Motor Fuel Agreement Security Deposit Agreement Section 1 Credit Network Agreement Section 3	Items 5, 6, 7 & 8

<b>Obligation</b>	<b>Section in Agreement</b>	<b>Disclosure Document Item</b>
c. Site development and other pre-opening requirements	Sections 6.2, 7.3, 7.4 Section 4.1 of Multiple Site Operator Agreement Section 21 of Motor Fuel Agreement	Items 7, 8 & 11
d. Initial and ongoing training	Sections 8.14, 8.16, and 8.18, 8.20 of Franchise Agreement Section 4.2 of Multiple Site Operator Agreement Sections 2.4.2 & 2.4.3 of Software Agreement	Items 7 & 11
e. Opening	Sections 2.1 & 6.2 of Franchise Agreement	Items 7 & 11
f. Fees	Sections 5.1 – 5.10 & 6.1 of Franchise Agreement Section 2.1 of Multiple Site Operator Agreement Section 2.1 of Software Agreement Sections 4, 8 & 19 of Motor Fuel Agreement Sections 7 & 8(f) of Branding Agreement Security Deposit Agreement Section 1 Credit Network Agreement Sections 3 & 4	Items 5, 6 & 7
g. Compliance with standards and policies/Operating Manual	Section 7.5-7.7, 8 & 9 of Franchise Agreement Article 5 of Multiple Site Operator Agreement Section 2.3 of Software Agreement Sections 8, 13, 14, 15, 18, 21 & 25 of Motor Fuel Agreement Section 8 of Branding Agreement	Items 8, 11 & 14
h. Trademarks and proprietary information	Articles 4 & 9 of Franchise Agreement Section 1.1 & 1.2 of Multiple Site Operator Agreement Section 2.3 of Software Agreement Section 14 of Motor Fuel Agreement Section 5 of Branding Agreement	Items 13 & 14
i. Restrictions on products/services offered	Sections 8.1 & 8.2 of Franchise Agreement Section 2.6.1.1 of Software Agreement Section 2 & 3 of Motor Fuel Agreement Section 6 of Branding Agreement	Items 8 & 16
j. Warranty and customer service requirements	None Sections 2.5 & 2.6 of Software Agreement Section 26 of Motor Fuel Agreement	Items 11 & 16
k. Territorial development and sales quotas	Sections 2.2 and Exhibit 1 of Multiple Site Operator Agreement Section 3 of Motor Fuel Agreement	Item 12
l. Ongoing product/service purchases	Sections 8.1 & 8.2 of Franchise Agreement Section 2.1 of Software Agreement Sections 2 & 3 of Motor Fuel Agreement	Items 8 & 16
m. Maintenance, appearance and remodeling requirements	Sections 7.3, 7.4, 7.5, 7.6 & 7.7 of Franchise Agreement Section 4 of Multiple Site Operator Agreement Section 1.2 of Software Agreement Section 14 of Motor Fuel Agreement Section 8(e) of Branding Agreement	Items 7 & 8
n. Insurance	Article 13 of Franchise Agreement Section 29 of Motor Fuel Agreement Section 8(h) of Branding Agreement	Items 7 & 8
o. Advertising	Article 6 of Franchise Agreement Article 4 of Multiple Site Addendum	Items 6 & 11

<b>Obligation</b>	<b>Section in Agreement</b>	<b>Disclosure Document Item</b>
p. Indemnification	Article 17 of Franchise Agreement Section 2.6 of Software Agreement Section 4(b), 6 & 18(h) of Motor Fuel Agreement Section 8(i) of Branding Agreement	None
q. Owner's participation/ management/staffing	Sections 8.6, 8.7, 8.12, 8.13, 8.17, 8.19 of Franchise Agreement Section 4.2 of Multiple Site Operator Agreement	Item 15
r. Records and reports	Sections 11.1, 11.3, 11.5, 11.6 & 11.7 of Franchise Agreement Section 7(c) of Branding Agreement	Items 6 & 17
s. Inspections and audits	Sections 9.4 & 11.4 of Franchise Agreement Section 14 of Motor Fuel Agreement Section 8(c) & 8(g) of Branding Agreement	Items 6 & 11
t. Transfer	Articles 15 & 16 of Franchise Agreement Article 7 of Multiple Site Operator Agreement Sections 2.3.5 and 3.14 of Software Agreement Section 16 of Motor Fuel Agreement Section 10 of Branding Agreement	Items 6 & 17
u. Renewal	Sections 3.2, 3.3 & 3.4 of Franchise Agreement Section 3.2 of Multiple Site Operator Agreement Section 3.1 of Software Agreement Section 1 of Motor Fuel Agreement Section 2 of Branding Agreement	Item 17
v. Post-termination obligations	Section 14.7 of Franchise Agreement Section 6.3 of Multiple Site Operator Agreement Sections 1.4, 2.3.6 and 3.3 of Software Agreement Sections 14 & 22 of Motor Fuel Agreement Section 11(e) of Branding Agreement	Item 17
w. Non-competition covenants	Article 10 of Franchise Agreement Article 8 of Multiple Site Operator Agreement Section 2 of Motor Fuel Agreement	Item 17
x. Dispute resolution	Article 18 of Franchise Agreement Article 9 & Section 11.3 of Multiple Site Operator Agreement Section 34, 35, 36 & 37 of Motor Fuel Agreement Section 14 of Branding Agreement	Item 17
y. Other: Confidentiality	Section 9.3 of Franchise Agreement Section 3.15 of Software Agreement Section 28 of Motor Fuel Agreement Section 12 of Branding Agreement	Items 14 & 15

## **ITEM 10 FINANCING**

### **SUMMARY OF FINANCING OFFERED**

#### Kangaroo Express Store

We offer an Equipment/Construction Funding program to qualified franchisees for our Convenience Store offering. If you accept funding for your Store, we will use these funds to offset the cost of equipment and construction at your Store, and pay invoices on your behalf. The amount of funding offered to you will depend on whether your Kangaroo Express Store is a newly

constructed store or conversion Kangaroo Express Store; however, the funding offered will not exceed the actual costs incurred. We will retain a security interest in each item of equipment purchased with Equipment/Construction Funding until the Franchise Agreement expires. Upon any such expiration, we will release our security interest. If the Franchise Agreement is terminated, you will (a) pay us the remaining net value of the equipment, which amount will reflect the unamortized portion of the Equipment/Construction Funding you receive or, at our option, (b) grant us access to the Store so we can remove the equipment. Upon receipt of such payment, we will release our security interest in the equipment.

For a newly constructed Kangaroo Express Store, or the raze and rebuild of a Kangaroo Express Store, two levels of funding are available, which, for purposes of the calculation of Royalty Fees, are referred to as “Level 2” funding amount and “Level 3” funding amount. The Level 2 funding amount of the Equipment/Construction Funding is up to \$50 for each square foot of selling space your Store contains. The Level 3 funding amount of the Equipment/Construction Funding is up to \$70 for each square foot of selling space your Store contains. TMC has the right to determine the square footage to establish the maximum amount of the funding.

For bay-conversions, store re-openings, store expansion projects, or conversions where TMC cannot adequately verify existing sales levels, two levels of funding are available, which, for purposes of the calculation of Royalty Fees, are referred to as “Level 2” funding amount and “Level 3” funding amount. The Level 2 funding amount of the Equipment/Construction Funding is up to \$40 for each square foot of selling space your Store contains, capped at \$90,000. The Level 3 funding amount of the Equipment/Construction Funding is up to \$60 for each square foot of selling space your Store contains, capped at \$135,000. TMC has the right to determine the square footage to establish the maximum amount of the funding.

For conversion Store, the amount of the funding specified in the Equipment/Construction Funding Agreement is based on the verified annual amount of your existing convenience store’s Gross Sales for the most recently completed 12-month period as determined by you and us. If your store’s tobacco sales as a percentage of your total sales are substantially over the average for such percentage, your funding may be altered. In addition, TMC reserves the right to modify the amount of the funding if, subsequent to the parties’ execution of the Equipment/Construction Funding Agreement but before the store is deemed open as a Kangaroo Express Store, the merchandise sales levels drop below the amount used by TMC to set the original funding amount. Otherwise, funding for existing convenience stores that will be converted is as follows:

**Level 1 Funding for Existing C-Store**

<b>Average Gross Sales (last 12 months)</b>	<b>Equipment/Construction Funding Available</b>
\$50,000 or less	Up to 0.5 times Gross Sales
\$50,001 to \$75,000	Up to 0.6 times Gross Sales
\$75,001 to \$100,000	Up to 0.7 times Gross Sales
\$100,000+	Up to 0.75 times Gross Sales

Level 2 Funding for Existing C-Store

Average Gross Sales (last 12 months)	Equipment/Construction Funding Available
\$50,000 or less	Up to 1.0 times Gross Sales
\$50,001 to \$75,000	Up to 1.2 times Gross Sales
\$75,001 to \$100,000	Up to 1.4 times Gross Sales
\$100,000+	Up to 1.5 times Gross Sales

Level 3 Funding for Existing C-Store

Average Gross Sales (last 12 months)	Equipment/Construction Funding Available
\$50,000 or less	Up to 1.4 times Gross Sales
\$50,001 to \$75,000	Up to 1.6 times Gross Sales
\$75,001 to \$100,000	Up to 1.8 times Gross Sales
\$100,000+	Up to 1.9 times Gross Sales

In addition to our standard Equipment/Construction Funding, you may qualify for an additional up to \$10,000 in funding if you qualify for and maintain in the Store a qualifying proprietary food service offering or third-party food service offering (such as Krispy Krunchy Chicken or Champs Chicken) that we pre-approve in writing and that complies with the terms of the applicable third-party license or other agreement pursuant to which you receive the right to operate such offering (the “Qualifying Food Offering”). If, for any reason, the Qualifying Food Offering is removed from your Store, you will be required to repay the \$10,000 less the amortized portion for each month the Qualifying Food Offering was in full operation.

Funding offered for the renewal of an existing franchise agreement at an existing Kangaroo Express Store will be based on our existing c-store program and corresponding funding levels. However, in certain circumstances we may offer more or less funding. The amount of funding offered to you will be determined by TMC at its sole discretion and will be provided to you prior to executing the renewal franchise agreement. Currently, any funding offered for a franchise renewal will be subject to substantially similar terms and conditions as described above in this item 10.

If you choose to accept the Equipment/Construction Funding from us, you will be required to execute the Equipment/Construction Funding Agreement attached as Exhibit 4 to the Franchise Agreement.

Regardless of the funding we offer to you, you may choose to accept any level of offered funding or no funding. As described in greater detail in Item 6 above, if you are a single site operator, your monthly Royalty Fee will depend, in part, on the amount of funding you choose to accept. If you elect not to accept any funding from us, your monthly Royalty Fee will be 3.0% of Gross Sales. If you accept Level 1 funding, your monthly Royalty Fee will be 3.75% of Gross Sales. If you accept Level 2 funding, your monthly Royalty Fee will be 4.5% of Gross Sales. If you accept Level 3 funding, your monthly Royalty Fee will be 5.5% of Gross Sales. No matter

the Funding you accept from us, from and after opening of your Store, the monthly Royalty Fee will be the greater of (a) \$1,000.00 or (b) the amount calculated as the applicable percentage of Gross Sales as set forth above and as described in more detail in Item 6.

If you are a Multi-Site Operator, your monthly Royalty Fee will also depend on whether you choose to accept funding from us and the number of Kangaroo Express Stores you have opened and are operating. Please refer to the chart in Item 6 for a more detailed description of the Royalty Fee calculation for Multi-Site Operators.

As it relates to the equipment purchased using Equipment/Construction Funding, you, at your own cost and expense, shall (a) maintain the equipment in good repair and operating condition, (b) replace any equipment that is stolen, lost, destroyed or damaged beyond repair, which replacement equipment shall become our property, (c) replace any parts of the equipment which become worn out, lost, destroyed or damaged, which replacement parts shall become our property, (d) file the necessary tax returns and pay any property taxes associated with the equipment, and (e) obtain insurance coverage for the equipment as required by the terms of the Franchise Agreement.

Tax issues may arise with respect to receipt of the funding from us. You are solely responsible for determining the proper tax treatment of the funding in consultation with your own tax advisor. We reserve the right to earn revenue and/or receive rebates from the equipment and/or construction services that we purchase/pay for on your behalf. We may retain all revenue and/or rebates we receive for our own account.

### Motor Fuel Business

We offer an Incentive/Conversion Funding Program for our Motor Fuel Business offering. Below is a summary of the Incentive/Conversion Funding Program. If you accept Incentive/Conversion Funding from us, you will sign an Incentive and Amortization Agreement, Promissory Note, Security Agreement (form copies of each are attached as Exhibit 6 to the Motor Fuel Agreement (which is Exhibit H to this Disclosure Document)) and the Personal Guaranty (a sample copy of which is included as Exhibit K to the Franchise Disclosure Document) that you sign in connection with the Franchise Agreement will apply to your obligations under the Incentive/Conversion Funding Program.

<b>Item Financed</b>	<b>Source of Financing</b>	<b>Amount Financed</b>	<b>Term</b>	<b>Annual Interest Rate</b>	<b>Monthly/Quarterly Payment</b>	<b>Pre-payment Penalty</b>	<b>Security Required</b>	<b>Liability Upon Default</b>	<b>Loss of Legal Right on Default</b>
Business Improvements / Conversion Costs	Us or our affiliate	Varies See Note (1)	Varies See Note (2)	Variable rate up to the maximum amount allowed under applicable law.	See Note (3)	See Note (4)	Yes See Note (5)	Yes See Note (6)	No See Note (7)

#### Notes:

(1) The amount of Incentive/Conversion Funding offered will depend on the condition of the Business, including the amount of necessary improvements and branding requirements.

(2) The term of the loan will vary depending on each particular loan and the related circumstances (Section 6 of Incentive and Amortization Agreement).

(3) You will not make any payments to us or our affiliate under the terms of the Incentive and Amortization Agreement, provided an Acceleration Event (as defined in Section 2(c) of the Incentive and Amortization Agreement) does not occur. Provided an Acceleration Event has not occurred, a portion of the Incentive/Conversion Funding offered to you, plus all accrued interest, will be forgiven each year at the rate set forth in the Amortization Schedule attached to the Incentive and Amortization Agreement. The total number of payments will depend on the term of your loan and will be designated in Section 6 of the Incentive and Amortization Agreement.

(4) Provided an Acceleration Event has not occurred, no payment obligations exist under the terms of the Incentive and Amortization Agreement.

(5) In connection with obtaining Incentive/Conversion Funding, you must execute a Security Agreement covering, among other things, all accounts, inventory, equipment, furniture, fixtures, tangible property, general intangibles, chattel paper and other instrument (a sample copy of which is included in Exhibit B to the Incentive and Amortization Agreement) and a Promissory Note (a sample copy of which is included as Exhibit A to the Incentive and Amortization Agreement). In addition, the personal guaranty (a sample copy of which is included as Exhibit K to the Franchise Disclosure Document) that all of your owners must sign in connection with entering into the Franchise Agreement will apply to your obligations under the Incentive/Conversion Funding, including the Security Agreement and the Promissory Note.

(6) In the event of any default under the terms of the Incentive and Amortization Agreement (as defined in Section 2(c) of the Incentive and Amortization Agreement), we will have the right to: (i) require immediate payment of all amounts owing under the Incentive and Amortization Agreement, (ii) collect all amounts owing from you or any guarantor of the Incentive and Amortization Agreement, (iii) file suit and obtain judgment, (iv) take possession of any collateral, or (v) sell, lease or otherwise dispose of any collateral at public or private sale, with or without advertisement. We will have the right to exercise any other rights under the Incentive and Amortization Agreement, Security Agreement or Personal Guaranty. This may include, among other things, foreclosing on any or all of your assets and/or taking any legal action against one or more guarantors for payment of all amounts due, and/or exercising our rights under the Security Agreement and/or Personal Guaranty.

(7) A default under the terms of the Incentive and Amortization Agreement will constitute a default of your obligations under your Motor Fuel Agreement. A default of the Incentive and Amortization Agreement will not constitute a default of your obligations under your Franchise Agreement.

Tax issues may arise with respect to receipt of the Funding from us. TMC does not make any representation as to the proper tax treatment of the funding and you should consult your own tax advisor.

### Branded Business

Neither we nor any agent or affiliate currently offers direct or indirect financing to you

with respect to the Branded Business. We do not guarantee your note, lease or obligations with respect to the Branded Business.

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

### Kangaroo Express Store

**Except as listed below, TMC is not required to provide you with any assistance.**

#### Pre-Opening Obligations (Single Store Development)

Before you open your business, we will:

1) Review your site and consult with you regarding site selection, but you are ultimately responsible for locating and obtaining an acceptable site (Franchise Agreement, Section 2.1). In evaluating a proposed site, we consider such factors as competition, trade area analysis, proximity to institutions and other potential sources of customers, building suitability, traffic and transportation, the nature and extent of adjacent businesses, the comparative advantages of a particular market, and other factors. We will generally respond within 30 days of your request for approval of your proposed site. If we do not approve the site you propose, we will permit you to examine alternative search areas for your site. If your Store is not fully constructed within (i) one year, if the Store is a new store; (ii) 120 days, if the Store is a conversion of an existing convenience store, including but not limited to the conversion of an existing company-operated Kangaroo Express Store; or (iii) 240 days, for all other construction projects, your Franchise Agreement may be terminated in accordance with the provisions of the Agreement.

2) Approve your property or building lease relating to your Kangaroo Express Store (Franchise Agreement, Section 7.1).

3) Provide you with site development standards, construction standards and specifications, based on the as-built plans you provide to TMC of your existing store in a CAD format. If a CAD format is not available, TMC will hire a firm to complete the measurements and provide a plan for your Store in a CAD format, using funds from your Equipment/Construction Funds. If you choose not to accept the Equipment/Construction Funding, you will bear the costs associated with providing the CAD. Once the plan has been approved, TMC will provide you with a complete floor plan, work scope, interior sign and paint plan, and exterior sign and image plan for the project. All construction plans, material specifications, and floor designs must be approved by us before you begin construction (Franchise Agreement, Sections 7.3 and 7.4).

4) Consult with you regarding the design and layout of your Kangaroo Express Store (Franchise Agreement, Section 7.3). We will also provide you with merchandise planograms and recommended retail prices.

5) Make periodic site inspections and conduct a final inspection, at our option, of your completed Kangaroo Express Store to determine whether you have complied with the plans and specifications previously approved by us (Franchise Agreement, Sections 7.4 and 12.1(B)).

6) Provide you with a list of approved suppliers for your equipment, fixtures, signs, and inventory (which will include written specifications for certain items of equipment, signs, fixtures, opening inventory and supplies in some instances and approved suppliers in other instances). We do not deliver or install any items (Franchise Agreement, Section 12.1(A)).

7) Select a third-party management firm to assist you with the development and construction of your Store. These services will vary depending on the construction and equipment needed to construct or convert your Store to Kangaroo Express standards and requirements (Franchise Agreement, Section 12.2).

8) Provide you online access to the Business Systems Manuals, which cover our operating policies, architectural and construction standards, store operations, marketing and advertising policies and standards, promotional programs, risk management, loss prevention, accounting, and other business matters. The table of contents of the Business Systems Manuals as of our last fiscal year is attached as Exhibit D (Franchise Agreement, Section 9.1).

9) Provide you with on-site opening assistance at your Kangaroo Express Store, as required. You or your operations manager and store manager must have completed the Training Program, and the Store must be ready to begin operations prior to this on-site opening assistance (Franchise Agreement, Section 8.16). We are not obligated to provide you any pre-opening advertising, but will assist you with developing and carrying out a grand opening (Franchise Agreement, Section 6.2).

10) If you qualify, provide you with Equipment/Construction Funding (Franchise Agreement, Section 7.8).

11) Train you or your operations manager and your store manager, all of whom must complete the Training Program to our satisfaction, as follows (Section 8.14):

### TRAINING PROGRAM

Subject	Days of Online Classroom Training	Hours of On-the-Job Training	Location
1. Store Operations Training Business Management; Category Marketing and Merchandising Strategies; Brand Standards and Image Programs; Inventory Management; Customer Service -Retail Excellence -Mystery Shop; Store Safety; Shift Management Internet Use-CircleKfranchise.com Human Resource Management Theft/Anti-Money Laundering New Store Opening Kit Back-Office System Training	7 days of online class training, comprised of 4 days of S.M.A.R.T. Academy and 3 days of SSCS back-office training	Minimum of 3 days	Various locations including online, remote via Microsoft Teams, Circle K company-operated, or franchised stores
2. Regional In-Store Training		5 days	Various regional franchise locations

Subject	Days of Online Classroom Training	Hours of On-the-Job Training	Location
3. Additional In-Store Training		Up to 2 weeks (as determined by TMC based on candidate's experience)	Various company-operated or franchised stores regionally located

Stacy Huber has been our Training Manager of Worldwide Franchising since March 2017 and is responsible for our store management training programs. From March 2016 through February 2017, she was our Franchise Training Specialist. From November 2012 through February 2016, she was the Centralized Hiring Manager for the Arizona Region of Circle K Stores Inc. From March 2010 through October 2012, she was a Store Manager for the Arizona Region of Circle K Stores Inc.

All classroom training will take place remotely through video and audio computer applications and/or other locations as specified by us. Additional to the classroom training is the Back-Office System Training, which is conducted remotely through video and audio computer applications by our designated third-party provider of the back-office system for the Store. Depending on the geographic location of your store, you or your operations manager and your store manager may also be required to attend a one-week regional in-store training program conducted by our trainers at an existing franchise location. The current fee for the regional in-store training program is \$500 per person, and as of the date of this Disclosure Document, this regional training is only available on a test basis to stores located in the southeast United States. If we determine that this test regional training program is successful, we will roll out it across the United States in the coming years. You will also be responsible to pay for wages, travel, lodging, meals and incidental expenses for you and your Store Manager while attending the initial and regional in-store training program. If you are a Multi-Site Operator and we elect to conduct training at a location near you to accommodate your needs, you must pay us a fee ranging from \$2,500 to \$5,000. Your training will be led by trainers that are employed by us or our affiliates, or by contract trainers, all of whom have had previous training or convenience store operations experience. The Business Systems Manuals will be used as one of the principal instructional materials. On-the-job training may be conducted at various Kangaroo Express Stores or similar convenience stores (Franchise Agreement, Section 8.14) based on our determination of your business experience.

If you fail the final exam for the classroom training or you fail any portion of the on-the-job training, we may require that you re-take the training, or any additional training we determine. You will be charged \$2,000 per week for this training. Failure to successfully complete this training will result in the termination of your agreement and the repayment of all of our expenses, including but not limited to the investment we have made in your property.

Notes to Training Schedule:

(1) After you sign your Franchise Agreement, you or your operations manager and your store manager must successfully complete our Training Program before opening your Store. You will receive up to 2 weeks of classroom training and up to 2 weeks of in-store training, which may overlap with the two weeks of classroom training. The Training Program consists of several

different stages, and you must successfully complete all of the stages to our complete satisfaction. If you fail to successfully complete any stage of the Training Program, this will constitute not successfully completing the Training Program. You must complete the Training Program no earlier than one hundred eighty (180) days prior to the opening of your Store.

(2) If you hire a new manager or an additional store manager, you are responsible for ensuring that your new manager is adequately trained to manage the Kangaroo Express Store, which does include a complete review of the Business Systems Manuals and which may include, at your cost, successfully completing our Training Program. Regardless of the method you select to conduct training, your new store manager is required to successfully complete training and be certified by us within the first 90 days of employment. Should you receive a default notice and the default relates, in whole or in part, to your failure to meet any operational standards, we may require as a condition of curing the default that you and/or your manager(s) re-attend and successfully complete our Training Program at your expense.

(3) If you are an existing convenience store franchisee operating under the Kangaroo Express Marks, *On the Run* trademarks, Circle K trademarks, or any other marks designated by us in the future, we may offer you the opportunity to attend a modified training program (the “Modified Training Program”) which is shorter in duration than the Training Program identified above. The Modified Training Program will last approximately three to five days and will cover items specific to the Kangaroo Express Program. Regardless of whether a franchisee attends the Training Program or Modified Training Program, all franchisees must complete the same pre-classroom assignments and pass the same final exam.

#### Continuing Obligations (Single Store Development)

During the operation of your Franchised Business, we will:

1) Periodically inspect your Store to determine whether you are operating and maintaining it as required by the Franchise Agreement and Business Systems Manuals, and provide you with written quality performance reviews on each inspection (Franchise Agreement, Section 12.1(B)). In addition, we may make a special inspection of a Store because of specific problems that may take from one to two days.

2) Periodically update sections of the online Business Systems Manuals (Franchise Agreement, Section 9.2).

3) Offer periodic training for you or your operations manager and your store manager in specialized fields (Franchise Agreement, Section 8.17, 18.18, and 18.20).

4) Periodically discuss with you operating and marketing issues concerning your Store (Franchise Agreement, Section 12.1(D)).

5) Provide you with the names of new approved sources of supplies and products (Franchise Agreement, Section 12.1(A)).

6) Provide reasonable assistance to you to implement the methods and procedures for store operations required by us (Franchise Agreement, Sections 12.1 (A), (B), (C) and (D)).

7) Recommend to you a system of store-level electronic accounting and record keeping utilizing certain computer hardware and software (Franchise Agreement, Sections 11.1 and 11.2).

8) Provide you with periodic recommendations regarding obtaining products, securing vendors, and establishing purchasing, selling, and pricing strategies. We may, from time to time, make suggestions to you with regard to your pricing policies. Although you generally have the right to establish prices for the products and services you sell, we reserve the right to establish and enforce prices, both minimum and maximum, to the extent permitted by applicable law. (Franchise Agreement, Section 12.1(A)).

9) Make available to you advertising and promotional materials and advice for local advertising (Franchise Agreement, Sections 6.3 and 12.1(C)).

10) Approve all advertising and promotional materials submitted to us by you (Franchise Agreement, Section 6.4).

#### Pre-Opening and Continuing Obligations (Multi-Site Operators)

If you are a Multi-Site Operator, in consideration for a reduction in Royalty Fee, you must commit to maintain training, advertising and promotions, and other operational programs and standards through your own employees and infrastructure. As a result, we will provide fewer services to you than we would typically provide to an operator of a single Kangaroo Express Store (Multi-Site Amendment, Sections 3 and 12). Under the Multiple Site Operator Agreement, we agree to provide the following pre-opening and continuing services to you:

1) Written materials containing the instructions, requirements, standards, specifications, and procedures for the development and construction of a Kangaroo Express Store, including site selection guidelines and criteria, construction management techniques, and development planning and scheduling methods (Multiple Site Operator Agreement, Section 5(i)).

2) Certain site selection counseling and assistance as we deem advisable (Multiple Site Operator Agreement, Section 5(ii)).

3) Certain on-site evaluation as we deem advisable in response to your request for site evaluation. We will not, however, provide any such assistance for a proposed site prior to your submission of all required information and materials concerning the site (Multiple Site Operator Agreement, Section 5(iii)).

4) Services of a TMC area consultant, who from time to time will communicate with you and assist you with certain strategic decisions, such as site selection, marketing and operational issues. This area consultant will serve as a liaison between you and TMC on a continuing basis, and in fact may be your only consistent contact with TMC (Multiple Site Operator Agreement, Section 5(iv)).

If you are a Multi-Site Operator, you alone will be responsible for training your store managers and employees. Accordingly, at all times during the term of your Multiple Site Operator Agreement, and thereafter for as long as any Franchise Agreement entered into thereunder remains

in force, you are required to have at least one designated trainer who is qualified, in TMC's sole judgment, to administer TMC's Kangaroo Express Training Program. If your designated trainer leaves your Kangaroo Express business, you will have 60 days to replace your designated trainer (Multi-Site Amendment, Section 12; Multiple Site Operator Agreement, Section 4.2).

### Marketing/Sales Promotions

The monthly Promotional Fee collected by us (see Item 6) will be used to establish and develop local, regional and national marketing, sales promotions, image/customer service programs, franchisee incentive programs, equipment upgrades and advertising. Currently, the Promotional Fee consists of three components: Tier I (General Promotion), Tier II (Local and Regional Promotion) and Tier III (National Promotional). These components are discussed below:

Tier I – General Promotion. You will pay a monthly fee of 0.25% of your Store's monthly Gross Sales (on Gross Sales of up to \$125,000) for general promotional costs. We will use this fee for store image/customer service inspections, incentive programs for franchisees, administrative costs associated with the Promotional Fund, and to pay for work done by outside advertising agencies in developing creative advertising concepts and in various promotional materials for the Kangaroo Express System.

Tier II – Local and Regional Promotion. The Tier II component covers local and regional promotional costs to promote Kangaroo Express Stores. The monthly fee for this component may vary based on the particular Designated Marketing Area (DMA) in which your Store is located and is subject to change from time to time. You will pay up to 0.75% of your Store's monthly Gross Sales (on Gross Sales of up to \$125,000) for regional promotional costs. All Kangaroo Express franchisees who have signed a single site franchise agreement or multiple site operator agreement located within a given DMA will pay the same fee. The Tier II funds will be used to cover regional promotion and equipment upgrades for the Kangaroo Express Stores located in your region or DMA, which may also include radio, direct mailings, and newspaper advertising and other regional advertising efforts. At our option, and if there are surplus Local and Regional Promotional Fees, TMC may elect to direct a portion of the Local and Regional Promotional Fees to be used to fund the Local Store Marketing Program ("LSM"). The LSM will allow each franchisee the ability to use a portion of these funds on approved, store level marketing and promotional programs. LSM funds may not be available each year.

Tier III – National Promotion. This component of the Promotional Fees will be used primarily to conduct national advertising. The Tier III component is not currently in effect. If implemented (upon 60 days' advance written notice), you will pay up to 0.25% of your Store's monthly Gross Sales (on Gross Sales of up to \$125,000) for national promotion.

We have the final decision-making authority over all matters relating to the Promotional Fees collected and expended. We currently establish promotional programs for the promotion of the Kangaroo Express system and products. Our marketing department is responsible for category development, as well as the development of the promotional programs, which includes the

production, research, and administration of advertising, marketing calendars, production of television, radio, newspaper, direct mail, and point of purchase advertising, grand opening activities for new Store openings and all collateral materials. Upon written request, we will provide you with an annual unaudited accounting of the total amount of Promotional Fees collected and the total costs incurred by us. Our possession and custody of funds as Promotional Fees from you and other franchisees shall not be construed as making us a fiduciary with respect to the collection or expenditure of such funds, and any Promotional Fees will not be held in a trust or escrow account. In addition to Promotional Fees from franchisees, our affiliate Kangaroo Express Stores Inc. and outside vendors and suppliers may contribute monies to various promotional programs, although the company-operated Kangaroo Express Stores are not required to contribute on the same basis. We are not obligated to spend the Promotional Fees collected in any particular market nor are we obligated to spend all of the Promotional Fees collected in any fiscal year. We cannot guaranty that you will benefit directly or pro rata from the Promotional Fund, and allocations from the Promotional Fund may benefit other franchise or company-owned Kangaroo Express Stores disproportionately to your Store. If our costs for a fiscal year for the advertising and promotions described above exceed or fall short of the Promotional Fees collected for a fiscal year, we may, at our option, carry the excess or shortfall to the next fiscal year. We may use a portion of the Promotional Fees to solicit new franchise sales.

During the year ended April 27, 2025, Promotional Fees were spent as follows:

Point of Purchase Promotions	37%
Fixtures/Equipment	6%
Category Management	8%
Administration	7%
Incentives/Image	17%
Local Store Promotions	25%
<b>Total</b>	<b>100%</b>

You may develop advertising materials for your own use at your own cost and expense, which must comply with our standards. However, you must obtain our written approval before using any of the advertising materials you develop, including the grand opening activities at your Store. Our approval is required regardless of the form of media used for advertising, including electronic media, social media and the internet. Any costs and expenses incurred by you for your own advertising, marketing, or sales promotions will be in addition to, and not in lieu of, the Promotional Fees.

You also must conduct a grand opening advertising and promotional campaign in connection with the opening of your Store. The grand opening advertising and promotional campaign must occur no earlier than 30 days but within 180 days of the date you begin conducting business at the Store under the Kangaroo Express Marks. All grand opening activities and related publicity must receive our prior written approval. We will provide a grand opening materials package to you. You will be responsible for all costs and expenses associated with your grand opening campaign; however, if you contribute toward the Tier II Promotional Fund, we will reimburse you (from funds deposited in the Promotional Fund) for pre-approved expenditures in the amount of \$0.50 for each \$1.00 you spend, up to a maximum reimbursement of \$2,000.

In addition, you must conduct such promotions and special events, and offer such promotional items, as we may require from time to time. You must participate in any loyalty programs and other marketing and promotional initiatives that we may from time to time establish. We have the right to modify the participation criteria or discontinue such initiatives at any time upon written notice to you.

We currently do not have an advertising council, but we reserve the right to create one in the future.

As of the date of this Disclosure Document, there are no advertising cooperatives or local marketing groups (collectively, “LMGs”) formed, but we reserve the right to designate or form one in your area in the future and require you to participate in the LMG. The Franchise Agreement does not provide and we currently do not have a plan for determining: (1) how the area or membership of the LMG is defined, (2) how much a franchisee must contribute to the LMG and whether franchisees contribute different amounts, (3) whether the franchisor-owned outlets must contribute to the LMG and if so, whether on the same basis, (4) who is responsible for administering the LMG, (5) whether the cooperative must operate from written governing documents and whether these documents are available for franchisees to review, and (6) whether the LMG must prepare annual periodic financial statements and whether they are available for a franchisee to review. We also reserve the right to change, dissolve or merge any LMGs.

As discussed previously in this Item 11, if you are a Multi-Site Operator, we will provide fewer services to you than we might otherwise provide to Kangaroo Express franchisees. For example, you, rather than us, may be responsible for administering and collecting marketing, promotional or other similar allowances to which we may be entitled under a Franchise Agreement for any of your Kangaroo Express Stores (Multi-Site Amendment, Section 3). In addition, you will be required to maintain your own staff and infrastructure to conduct advertising and promotions on your own behalf and to perform other operational functions at and for your Stores (Multiple Site Operator Agreement, Section 4.2; Multi-Site Amendment, Section 3).

### Additional Training

We may hold additional or refresher training courses from time to time, and may require that you and your store managers (or, if you are a Multi-Site Operator, your designated trainer) attend these courses. There will be no fee charged for these courses (unless we elect to conduct training in a location near you to accommodate your needs), but you will have to pay for the costs of travel, lodging, meals, and other expenses incurred by you and your store managers (or, as applicable, your designated trainer) in attending this training.

Any training provided by us to any of your employees will be limited to training or guiding the employees regarding the provision of approved products and services to customers in a manner that reflects the customer service standards of the Kangaroo Express System. You are, and will remain, the sole employer of your employees at all times, including during all training programs, and you are solely responsible for all employment decisions and actions related to your employees. You are solely responsible for ensuring that your employees receive adequate training.

## Opening

Franchisees typically open their Stores within 150 to 200 days after they sign a Franchise Agreement if their Store is an existing Kangaroo Express Store or a conversion store, and within 15 to 18 months if their Kangaroo Express Store is a new Store. The factors that affect this time period are the ability to obtain a lease, financing or building permits, zoning and local ordinances, weather conditions, labor shortages and delayed installation of equipment, fixtures, and signs. Depending on the extent of the necessary work, we may require you to either close the store, or keep the store open, during the conversion process.

The Store must be fully constructed in accordance with Section 7.3 of the Franchise Agreement and ready to open within (i) 1 year of the effective date of the Franchise Agreement (the “Effective Date”) if the Store is a conversion Store; or (ii) 2 years of the Effective Date if the Store is a new Store. Your failure to open the Store within such timelines shall be grounds for default and termination.

Additionally, if you execute a Multiple Site Operator Agreement, your failure to comply with your store Minimum Development Schedule will constitute a default subject to termination of the Multiple Site Operator Agreement, and certain other remedies outlined in the agreements (Multiple Site Operator Agreement, Section 6.2).

## Computer System

You must obtain an integrated electronic point of sale scanning cash register/motor fuel dispenser controller system (the “EPOS System”) for the management of your Store. The EPOS System will record management, accounting and record keeping functions, utilizing certain computer hardware and software specified by us, including any subsequent enhancements and upgrades. You may also be required to obtain certain hardware and software, and associated communication lines, in the form of payment, activation, or acceptance terminals related to proprietary gift card, cash card, telecom, or other electronic card-based proprietary programs. The EPOS System currently costs about \$38,000 to \$45,000.

In addition to the EPOS System, we may require you to install a back office computer system (currently SSCS), including both hardware and software, or other existing or future communication or data storage systems (collectively “Computer Systems”), meeting our standards, as modified from time to time in response to business operations and marketing conditions. These Computer Systems may include hardware and software components and require you to attend training, purchase on-going support and perform periodic upgrades. The Computer Systems currently cost approximately \$13,000 to \$15,000. The Computer Systems will be used to assist you in the operation of your Store and may allow you to perform such functions as preparing reports, organizing inventory, communicating via e-mail, e-training and accessing the Internet. You will be responsible for all costs associated with any Computer Systems we require you to install, including those relating to software licenses, training, ongoing support and upgrades. We have the right to require you to purchase the Computer Systems from a single source or sources we designate. Regardless of whether we require you to install any Computer Systems, you must have, at all times, access to the internet through an established service provider and maintain an active e-mail account on the internet at your Store and keep us informed of the e-mail address for your account.

Neither we, nor any affiliate or third party, is obligated to provide ongoing maintenance, repairs, upgrades or updates for the EPOS System or Computer Systems. We currently do not require you to purchase a maintenance, repair, upgrade or update service contract for the EPOS System or Computer Systems, but we reserve the right to do so in the future. The current annual cost of a service contract for the EPOS System is \$2,400 to \$3,600 and \$1,800 to \$3,000 for the Computer Systems.

It is your responsibility to make sure that you are in compliance with all laws that are applicable to the EPOS System or other technology used in the operation of your Store, including all data protection or security laws as well as PCI compliance.

You must enter into a Software Agreement with us or our affiliates and pay a monthly maintenance and support fee to us or our affiliates for the use and upgrades of your TMC Software. Currently there is no fee being charged in conjunction with the Software Agreement, but we have the right to do so upon sixty (60) days' written notice.

We may on written notice require you to participate in a website, the Extranet, Intranet, or other online communications (including social media). We will determine the content and use of the website, Extranet, Intranet, or other on-line communications (including social media) and will establish rules under which you may or will: (a) participate in such website, Extranet or Intranet, or (b) separately use the Extranet, Internet or other on-line communications (including social media).

We must have full access to the Store-related data contained in your EPOS System, back office system, and Computer System. This means that we have the right to contact your computer independently via modem or another electronic device and inspect or copy the information on your EPOS System or Computer System. There are no contractual limitations on the data we may extract from your EPOS System, back office system, or Computer System. This will allow us to monitor your daily sales and the business activity at the Store. You are required to process an accurate daily report in your Computer Systems and to close your business in your Computer System daily. This includes the posting of all receipts and other related items. To facilitate automated communications, a dedicated communications line is required for your computer. This line will be used to obtain data needed to calculate certain fees owed to us, as well as to provide you with other support. Also, in order for us to calculate and for you to receive rebates, you must strictly comply with our systems and communications requirements. Further, we may update the minimum hardware and software requirements for the computer systems described above and you must comply with any update at your expense. There are no contractual limitations on the hardware and software upgrades that we may require you to make.

We may enter (at all reasonable times) your Store, electronically or in person, to inspect your compliance with the Franchise Agreement. We may also audit your records, including electronic data and other records, upon 48 hours' prior written notice to you.

In addition, if you do not offer any fuel for sale at the Franchised Location or if you execute the Motor Fuel Agreement or the Branding Agreement, you will be required to sign a Credit Network Agreement, pursuant to which you will receive access to the TMC Network, our online debit/credit network for processing debit and credit transactions. You will be required to pay us a

monthly Network Fee in exchange for the right to use the TMC Network. The monthly Network Fee you will be required to pay will be our then-current Network Fee, which as of the date of this Disclosure Document is \$50 per month. We reserve the right to modify the Network Fee upon 30 days' advance written notice. See also Item 6.

Other than as set forth above, we are not obligated to provide other supervision, assistance, or services after the opening of your Kangaroo Express Store.

### Motor Fuel Business

**Except as listed below, TMC is not required to provide you with any assistance.**

#### Pre-Opening Obligations (Motor Fuel Business)

Before you open your business, we will:

- 1) Provide you with standards, policies, guidelines, procedures, programs, requirements and specifications regarding site development and business operations, requirements and specifications. (Motor Fuel Agreement, Section 15(a)).
- 2) Make periodic site inspections of your Motor Fuel Business (Motor Fuel Agreement, Section 15(e)).
- 3) Provide you with a list of approved suppliers for your trademarked items and signs (Motor Fuel Agreement, Section 15(j)).
- 4) Provide you with motor fuel in connection with the quantity requirements noted in your Motor Fuel Commodity Schedule (Motor Fuel Agreement, Section 2).
- 5) Provide you with a copy of the Kangaroo Express Card Guide and any other manual we may develop in the future which cover our operating policies, motor fuel business operations, and other business matters (Motor Fuel Agreement, Section 9 (d)).

#### Continuing Obligations (Motor Fuel Business)

During the operation of your franchised business, we will:

- 1) Periodically inspect your Motor Fuel Business to determine whether you are operating and maintaining it as required by the Motor Fuel Agreement (Motor Fuel Agreement, Sections 15(e) and 15(i)).
- 2) Provide you with any updates to the Kangaroo Express Card Guide (Motor Fuel Agreement, Section 9(d)).
- 3) Provide you with motor fuel in connection with the quantity requirements noted in your Motor Fuel Commodity Schedule (Motor Fuel Agreement, Section 2).
- 4) Provide you with the names of new approved sources of supplies and products (Motor Fuel Agreement, Section 15(j)).

### Marketing/Sales Promotions

We are not required to provide you with any marketing or promotional materials for your Motor Fuel Business. We do not conduct a separate system-wide marketing program for our Motor Fuel Business offering. You are not required to engage in any local advertising or promotion of your Motor Fuel Business, but if you choose to do so, any advertising materials you develop must comply with our standards and you must obtain our written approval before using any advertising materials you develop for your Motor Fuel Business.

We currently do not have an advertising council for our Motor Fuel offering, but we reserve the right to create one in the future.

As of the date of this Disclosure Document, there are no advertising cooperatives or other local marketing groups (collectively, “LMGs”) formed for our Motor Fuel Business, but we reserve the right to form one in your area in the future and require you to participate in the LMG. The Motor Fuel Agreement does not provide and we currently do not have a plan for determining: (1) how the area or membership of the LMG is defined, (2) how much a franchisee must contribute to the LMG and whether franchisees contribute different amounts, (3) whether the franchisor-owned outlets must contribute to the LMG and if so, whether on the same basis, (4) who is responsible for administering the LMG, (5) whether the LMG must operate from written governing documents and whether these documents are available for franchisees to review, and (6) whether the LMGs must prepare annual periodic financial statements and whether they are available for a franchisee to review. We also reserve the right to change, dissolve or merge any LMGs.

### Training

As of the date of this Disclosure Document, we do not offer or require our motor fuel franchisees to attend an initial training program or any ongoing training except for the initial training program and ongoing training required for the operation of a Kangaroo Express Store.

### Opening

Motor Fuel franchisees typically open their Businesses within 30 to 180 days after they sign a Motor Fuel Agreement if their Motor Fuel Business is an existing Kangaroo Express Motor Fuel Business or a conversion forecourt, and within 9 to 18 months if their Motor Fuel Business is a new forecourt. The factors that affect this time period are the ability to obtain a lease, financing or building permits, zoning and local ordinances, weather conditions, labor shortages and delayed installation of equipment, fixtures, and signs. Your failure to open your Motor Fuel Business within the time periods noted above may be grounds for default and termination.

### Computer System

The computer and EPOS requirements (including back-office system) for a Store apply to a Motor Fuel Business. Except for the Network Fee outlined below, there are no additional computer-related requirements, investments or obligations imposed beyond those required for a Store.

In connection with the operation of your Motor Fuel Business, you must sign a Credit Network Agreement to receive access to the TMC Network. You will be required to pay us a monthly Network Fee in exchange for the right to use the TMC Network. The monthly Network Fee you will be required to pay will be our then-current Network Fee, which as of the date of this Disclosure Document is \$50 per month. We reserve the right to modify the Network Fee upon 30 days' advance written notice.

### Branded Business

**Except as listed below, TMC is not required to provide you with any assistance.**

#### Pre-Opening Obligations (Branded Business)

Before you open your business, we will:

- 1) Provide you with a list of approved suppliers for your trademarked items and signs (Branding Agreement, Section 5).
- 2) Provide you with a copy of the Kangaroo Express Card Guide and any other manual we may develop in the future which cover our operating policies, branding requirements, and other business matters (Branding Agreement, Section 5).

#### Continuing Obligations (Branded Business)

During the operation of your franchised business, we will:

- 1) Periodically inspect your Branded Business to determine whether you are operating and maintaining it as required by the Branding Agreement (Branding Agreement, Section 8(c)).
- 2) Provide you with any updates to the Kangaroo Express Card Guide (Branding Agreement, Section 5).
- 3) Provide you with the names of new approved sources of supplies and products (Branding Agreement, Section 5).

#### Marketing/Sales Promotions

We are not required to provide you with any marketing or promotional materials for your Branded Business. We do not conduct a separate system-wide marketing program for our Branded Business offering. You are not required to engage in any local advertising or promotion of your Branded Business, but if you choose to do so, any advertising materials you develop must comply with our standards, and you must obtain our written approval before using any advertising materials you develop for your Branded Business.

We currently do not have an advertising council for our Branded Business offering, but we reserve the right to create one in the future.

As of the date of this Disclosure Document, there are no advertising cooperatives or other local marketing groups formed for our Branded Business.

### Training

As of the date of this Disclosure Document, we do not offer or require any training for the operation of a Branded Business except for the initial training program and ongoing training required for the operation of a Kangaroo Express Store.

### Opening

A Branded Business typically opens within 30 to 180 days after a Branding Agreement is signed. The factors that affect this time period are delayed installation of equipment, fixtures, and signs.

### Computer System

The computer and EPOS requirements for a Store apply to a Branded Business. Except for the Network Fee outlined below, there are no additional requirements, investments or obligations imposed beyond those required for a Store.

In connection with the operation of your Branded Business, you must sign a Credit Network Agreement to receive access to the TMC Network. Pursuant to the Credit Network Agreement, you will be required to pay us a monthly Network Fee in exchange for the right to use the TMC Network. The monthly Network Fee you will be required to pay will be our then-current Network Fee, which as of the date of this Disclosure Document is \$50 per month. We reserve the right to modify the Network Fee upon 30 days' advance written notice.

Any evaluation or inspection we conduct is not intended to exercise, and does not constitute, control over your day-to-day operation of the Kangaroo Express Store, the Motor Fuel Business or the Branded Business, or to assume any responsibility for your obligations under the Franchise Agreement, the Motor Fuel Agreement or the Branding Agreement (as applicable).

## **ITEM 12 TERRITORY**

### Kangaroo Express Store

You will not receive an exclusive territory. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control. The Franchise Agreement grants you the right to operate one convenience store only at the location specified. You may not relocate your site without our prior written consent. If we consent to relocation of your Store, you must construct the new Store in accordance with our current specifications and at your sole cost and expense, including a relocation fee of 50% of the Initial Franchise Fee you paid when you signed the Franchise Agreement as reimbursement for expenses we have incurred in connection with the relocation.

You do not receive any rights to: (i) sell products or merchandise identified by the Kangaroo Express Marks at any location (other than your approved Kangaroo Express Store premises) or through any other channels or methods of distribution, including the internet (or any other existing or future form of electronic commerce); (ii) sell products or merchandise identified

by the Kangaroo Express Marks to any person or entity for resale or further distribution; or (iii) exclude, control or impose conditions on TMC's development or operation of franchised, company or affiliate owned stores at any time or at any location.

We may grant franchises for Kangaroo Express stores or operate Kangaroo Express Stores (with or without motor fuel businesses) at any location as determined by us, regardless of proximity to your Store.

Regardless of whether you are a single Store operator, a multiple Store operator other than a Multi-Site Operator, or a Multi-Site Operator, we reserve the right to sell products bearing the Kangaroo Express Marks within your trade area through Kangaroo Express stores, other convenience stores and alternate channels of distribution other than convenience stores. We and our affiliates also are free to establish or operate other company-owned or franchised outlets or channels of distribution selling products or services under a trademark different than the Kangaroo Express Marks. In particular, as described below, we or our affiliates have the right to operate and establish company-owned or franchised outlets under the Circle K, *On the Run*®, and Holiday Stationstores® marks. These products or services may or may not be similar to the products and services offered at your Kangaroo Express Store. All of these locations and activities may compete with you. We also may vary standards for any Kangaroo Express franchise owner based on a particular site or circumstance, population variations, business potential, trade area, existing practices, or any other condition which we may determine to be significant.

We are not required to pay you if we exercise any of the rights specified above.

The Circle K and *On the Run* businesses sell goods and services similar to the franchise offered under this Disclosure Document. Specifically, the Circle K and *On the Run* businesses offer convenience store franchises under the Circle K and *On the Run* marks, respectively. Currently, the outlets operated under Circle K mark are company-owned and franchised, and the outlets under the *On the Run* mark are only franchised (and not company-owned), but we reserve the right to own or operate outlets under the *On the Run* mark. Franchisees using the Kangaroo Express mark, the *On the Run* mark and the Circle K mark have the right to solicit customers in your trade area. The Kangaroo Express business is operated from the same offices as Circle K and *On the Run*, at 1130 West Warner Road, Tempe, Arizona 85284. We provide training for all three brands in the same facility.

We may grant franchises for Circle K and *On the Run* businesses and we or our affiliates may operate Circle K and *On the Run* businesses at any location as determined by us or our affiliates, regardless of proximity to your Store.

The Holiday Stationstores® businesses also sell goods and services similar to the franchise offered under this Disclosure Document. As mentioned in Item 1 of this Disclosure Document, in December 2017, we acquired HDS, which offers and sells franchises under the Holiday Stationstores® marks for the operation of Holiday Stationstores® convenience stores. HDS and its affiliates have, and in the future franchisees using the Holiday Stationstores® mark may have, the right to solicit customers in your trade area. The Holiday Stationstores® franchise business is operated from HDS's principal place of business at 4567 American Boulevard West, Minneapolis, Minnesota 55437.

HDS may grant franchises for Holiday Stationstores® stores and HDS or its affiliates may operate Holiday Stationstores® stores at any location as determined by HDS or its Affiliates, regardless of proximity to your Store.

Continuation of your franchise does not depend on you achieving a certain minimum sales quota, market penetration, or other contingency. We generally will not grant you any options, rights of first refusal or similar rights to acquire additional franchises within a particular territory or contiguous territories.

There are no restrictions on the customers that you may solicit or service, but you do not have the right to use other channels of distribution such as mail order, catalog, telemarketing or Internet to make sales to customers.

### Motor Fuel Business

The grant of a Motor Fuel franchise under this Disclosure Document is non-exclusive. You will not receive an exclusive territory or any form of territorial protection. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control. The Motor Fuel Agreement grants you the right to operate one Motor Fuel Business only at the location specified. You may not relocate your site without our prior written consent. If we consent to relocation of your Motor Fuel Business and Kangaroo Express Store, you must construct the new site in accordance with our current specifications and at your sole cost and expense.

You do not receive any rights to: (i) sell motor fuel identified by the Kangaroo Express Marks at any location other than the site for your Motor Fuel Business or through any other channels or methods of distribution, including the internet (or any other existing or future form of electronic commerce); (ii) any right to sell motor fuel identified by the Kangaroo Express Marks to any person or entity for resale or further distribution; or (iii) any right to exclude, control or impose conditions on TMC's development or operation of franchised, company or affiliate-owned motor fuel businesses at any time or at any location.

We may issue franchises or operate Motor Fuel Businesses at any location as determined by us.

We and our affiliates reserve the right to sell motor fuel products bearing the Kangaroo Express Marks within your trade area to other motor fuel businesses and through alternate channels of distribution. We and our affiliates also are free to establish or operate other company-owned or franchised outlets or channels of distribution selling products or services under a trademark other than the Kangaroo Marks. These products or services may or may not be similar to the products and services offered at your Kangaroo Express Motor Fuel Business. All of these locations and activities may compete with you. We also may vary standards for any Kangaroo Express franchise owner based on a particular site or circumstance, population variations, business potential, trade area, existing practices, or any other condition which we may determine to be significant.

We are not required to pay you if we exercise any of the rights specified above.

Continuation of your Motor Fuel Business depends on your purchase of a certain quantity of motor fuel from us as outlined further in your Motor Fuel Agreement. Your failure to purchase the quantity of motor fuel outlined in your Motor Fuel Agreement may result in termination of the Motor Fuel Agreement. We generally will not grant you any options, rights of first refusal or similar rights to acquire additional franchises within a particular territory or contiguous territories.

### Branded Business

The grant of a Branded Business under this Disclosure Document is non-exclusive. You will not receive an exclusive territory or any form of territorial protection. You may face competition from other franchisees, from outlets that we own, or from other channels of distribution or competitive brands that we control. The Branding Agreement grants you the right to operate one Branded Business only at the location specified. You may not relocate your site without our prior written consent. If we consent to relocation of your Branded Business and Kangaroo Express Store, you must construct the new site in accordance with our current specifications and at your sole cost and expense.

You do not receive any rights to: (i) sell motor fuel identified by the Kangaroo Express Marks at any location other than the site for your Branded Business or through any other channels or methods of distribution, including the internet (or any other existing or future form of electronic commerce); (ii) any right to sell motor fuel identified by the Kangaroo Express Marks to any person or entity for resale or further distribution; or (iii) any right to exclude, control or impose conditions on TMC's development or operation of franchised, company or affiliate owned motor fuel businesses at any time or at any location.

We may issue franchises or operate other Branded Businesses at any location as determined by us.

We generally will not grant you any options, rights of first refusal or similar rights to acquire additional franchises within a particular territory or contiguous territories provided that you will have the right to sublicense the use of the Kangaroo Express Marks to other motor fuel retailers with our consent.

There are no restrictions on the customers that you may solicit or service, but you do not have the right to use other channels of distribution such as mail order, catalog, telemarketing or Internet to make sales to customers.

There are no restrictions on the customers that you may solicit or service, but you do not have the right to use other channels of distribution such as mail order, catalog, telemarketing or Internet to make sales to customers.

## **ITEM 13 TRADEMARKS**

You are granted the right to operate a Convenience Store and, if applicable a Motor Fuel Business or Branded Business, under the Kangaroo Express Marks, which are owned by our parent, Circle K Stores Inc. The Marks are licensed to TMC under a license agreement with Circle K Stores Inc. dated March 30, 2009, as amended on September 13, 2015, that has successive

one-year terms. Circle K Stores Inc. has the right to terminate the license agreement at any time if TMC fails or neglects to perform its obligations regarding the quality usage standards of the trademarks, following a 30 day right to cure period. You may use the Marks only in the manner authorized and permitted by us, and only under the terms of the Franchise Agreement, Motor Fuel Agreement and/or Branding Agreement. The Multiple Site Operator Agreement does not grant you the right to use the Marks in any manner. By “Marks,” we mean all trademarks, service marks, trade names, logos, and commercial symbols used to identify the Store. We may change, modify, or discontinue any of the Marks listed below.

The following Marks are registered on the Principal Register in the United States Patent and Trademark Office. All required affidavits and renewals for the trademarks listed below have been filed.

<b>Description of the Marks</b>	<b>Registration Date</b>	<b>Registration Number</b>	<b>Register</b>
Kangaroo Express Design	May 22, 2007	3244999	Principal
Kangaroo Express	May 22, 2007	3244998	Principal

There are currently no effective material determinations by the United States Patent and Trademark Office, the Trademark Trial and Appeal Board, the trademark administrator of any state, or any court, or any pending infringement, opposition, or cancellation proceedings, or any pending material litigation involving the Marks in the United States. No agreements limit either TMC’s or our affiliates’ rights to use or license others to use the Marks.

You must use the Marks only in the manner set forth in the Franchise Agreement, the Motor Fuel Agreement, Branding Agreement, Business Systems Manuals, and Motor Fuel Business Systems Manual, and as specified periodically by us. We have the right to modify or discontinue use of any Mark or to use one or more additional or substitute names or Marks, and you must comply, at your expense, with our directions with respect to these changes. We may, however, reimburse you for certain expenses where such changes result from an adverse third-party claim or a court decision. You may not use any of the Marks as part of your corporate, partnership or other legal entity name.

You must notify us immediately if you learn about an infringement of or challenge to your use of our Marks. We have the right to take whatever action we believe is, in our judgment, appropriate. TMC and our affiliates have the right to manage and resolve disputes with third parties concerning the Marks. Except as noted below, we are not required to defend you against any claim opposing your use of the Marks. You may tender the defense of any trademark action to us within 7 days after you receive it. You can hire your own attorney to defend you in this action, but you must pay your own legal expenses. If any claim relates just to your use of the Marks in complete compliance with your Franchise Agreement and/or the Motor Fuel Agreement and/or Branding Agreement, we will defend you against any such claim and will protect, indemnify, and hold you harmless from any loss from this claim. You may not contest our rights to the Marks, trade secrets, or our proprietary and distinctive business system.

Neither TMC nor our affiliates know of any infringing or prior uses that could materially affect your use of the Kangaroo Express Marks.

## **ITEM 14**

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

We do not grant you the right to use any items covered by a patent, pending patent application or copyright, but we do permit you to use proprietary information in the Business Systems Manuals and Motor Fuel Business Systems Manual. See Item 11. Although we have not filed an application for copyright registration for the Business Systems Manuals, the Motor Fuel Business Systems Manual and related materials, the information in the Business Systems Manuals, the Motor Fuel Business Systems Manual and related materials is proprietary, and we claim copyrights to the entire Business Systems Manuals, Motor Fuel Business Systems Manual and related materials used in connection with the operation of your Store.

There are currently no effective determinations of the Copyright Office (Library of Congress), United States Patent and Trademark Office, Board of Patent Appeals and Interferences, or any court, or any pending infringement, opposition or cancellation proceeding or any pending material litigation involving any patents or copyrights. There are currently no agreements in effect that significantly limit our rights to use or license the use of any patents or copyrights in any manner material to the franchise. There are no infringing uses actually known to us that could materially affect your use of the patents or copyrights.

We are not obligated to protect you against infringement or unfair competition claims arising out of your use of any patents or copyrights, or to participate in your defense or indemnify you. We reserve the right to control any litigation related to any patents and copyrights and we have the sole right to decide to pursue or settle any infringement actions related to the patents or copyrights. You must notify us promptly of any infringement or unauthorized use of the patents or copyrights of which you become aware.

All ideas, concepts, techniques, or materials concerning the Business System, the Motor Fuel System or Branded System, whether or not protectable intellectual property and whether created by or for you or your owners or employees, must be promptly disclosed to us and will be deemed to be solely and exclusively our property, part of the Business System, the Motor Fuel System or Branded System, and works made-for-hire for us. To the extent any item does not qualify as a “work made-for-hire” for us, you assign ownership of that item, and all related rights to that item, to us and you must take whatever action (including signing assignment or other documents) we request to show our ownership or to help us obtain intellectual property rights in the item.

## **ITEM 15**

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

We do not require that you personally manage the Store, Motor Fuel Business or Branded Business, but you must be actively involved in the day-to-day operations of the Store, the Motor Fuel Business and/or Branded Business, and spend adequate management time required to maintain the standards of the Franchise Agreement, the Motor Fuel Agreement and/or Branding Agreement. If you do not personally manage the Store or the Motor Fuel Business, the business must be directly supervised “on-premises” by a manager who has successfully completed our Training Program, and this person must be designated as your “Key Person” in the Franchise

Agreement and the Motor Fuel Agreement. You or your operations manager and your store manager must successfully complete the required Training Program in order to be authorized and permitted to operate and manage the Kangaroo Express Store and the Motor Fuel Business. The on-premises manager need not have an ownership interest in the franchise. You, your manager, and other employees must agree to maintain confidentiality of the proprietary information described in Item 14.

The Store, the Motor Fuel Business and/or Branded Business is to be open for business in normal operations (doors open and fully illuminated) 24 hours a day, 7 days a week (including all holidays), unless otherwise agreed by us in writing, or unless prohibited by law. If you operate the Store, Motor Fuel Business and/or Branded Business for less than 24 hours any day during a month in a locality that is not prohibited by local law or ordinances to operate 24 hours a day, or if you operate the Store, Motor Fuel Business and/or Branded Business for 24 hours a day, 7 days a week but utilize a pass-through window or bullet-resistant glass surrounding your sales counter for any such time, your monthly Royalty Fee may be increased by up to 1%.

In addition, as described in Item 11 of this Disclosure Document, if you enter into a Multiple Site Operator Agreement, you must employ an adequate number of employees to supervise your Kangaroo Express Stores and to otherwise meet your obligations under the agreements. These individuals will be responsible for the operation and administration of your various Stores, including the supervision of your store managers. Your supervisors must devote their full time and attention to administering and overseeing the operation of your Stores.

No employee of yours will be deemed to be an employee of ours for any purpose whatsoever, and nothing in any aspect of the Business System, the Motor Fuel System, Branded System or the Marks in any way shifts any employee or employment related responsibility from you to us. You alone are responsible for hiring, firing, training, setting hours for and supervising all employees.

Furthermore, as described in Item 11, if you enter into a Multiple Site Operator Agreement, you, and not TMC, will be responsible for training your store managers and other employees. As such, at all times during the term of the Multiple Site Operator Agreement, and during the term of any corresponding Franchise Agreement, you will be required to have at least one designated trainer who is qualified, in TMC's sole judgment, to administer TMC's Training Program. You will have 60 days to replace the designated trainer if the trainer leaves your Kangaroo Express business.

If you operate the franchise under any form of business entity (and not as an individual), then each person owning an equity or voting interest in the entity must sign a Personal Guaranty in the form attached to this Disclosure Document as Exhibit K. In addition to the Personal Guaranty, a cross-corporate guaranty may also be required in certain circumstances.

As between us and you, you are solely responsible for the safety and well-being of your employees and the customers of the franchise business.

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

We require you to offer and sell at your Convenience Store only those products and services specified or approved by us, which will include those products and services generally offered at Kangaroo Express Stores. You must offer for sale all products and services that we designate as required for all franchisees. These products and services will consist generally of the products and services offered by convenience stores. Your products and services must be presented in the Store according to the floor plan and gondola plan specifications of the Plan-O-Gram presentation design we provide to you. You must comply with every detail of the Plan-O-Gram designed for your Store. Your Store plan may not vary from the written Plan-O-Gram without our written approval. You also may not sell any products, merchandise or services relating to the Kangaroo Express Marks or purchased through our (or our affiliates’) negotiated purchase arrangements with suppliers at any location other than your Franchised Location. We have the right to add additional products and services that you must offer. There are no limits on our right to do so. See Items 8 and 9.

You may sell alcoholic beverages and tobacco products only in accordance with local licensing and other legal requirements.

If you sell motor fuel at the Franchised Location, it must be the brand of motor fuel that has been approved by us. We require you to offer and sell at your Motor Fuel Business only motor fuel supplied by us or our affiliate if you sign a Motor Fuel Agreement. Further, as of the date of this Disclosure Document, we only offer motor fuel businesses to franchisees that operate a Kangaroo Express Convenience Store in accordance with our requirements.

You are not limited in the customers to whom you may sell products or services, except as restricted by law.

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

**THE FRANCHISE RELATIONSHIP**

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

Provision	Section in Franchise or other agreement*	Summary
a. Length of the franchise term	Section 3.1; Section 3.1 of Multiple Site Operator Agreement; Section 3.1 of Software Agreement; Section 2 of the Motor Fuel Agreement; Section 1 of Branding Agreement	Franchise Agreement: Term is 10 years from the date your Store is deemed by us to be open for business under the Franchise Agreement. Multiple Site Operator Agreement: Term runs through date of TMC’s acceptance and execution of Franchise Agreement for the last Store to be established pursuant to the development or conversion schedule. Software Agreement: Term is the lesser of 10 years or the date of termination or expiration of the Franchise Agreement. Motor Fuel Agreement: Term is the lesser of 10 years or the term of the Franchise Agreement.

Provision	Section in Franchise or other agreement*	Summary
		Branding Agreement: Term is the lesser of 10 years or the term of the Franchise Agreement
b. Renewal or extension	Sections 3.2 and 3.3; Section 3.2 of Multiple Site Operator Agreement; Section 3.1 of Software Agreement; Section 2 of the Motor Fuel Agreement; Section 2 of the Branding Agreement	Franchise Agreement: If you are in good standing, you can renew for one renewal term. You must execute our then-current form of franchise agreement. Multiple Site Operator Agreement: No right of renewal. Software Agreement: May be renewed for a renewal term equal to that of the Franchise Agreement. Motor Fuel Agreement: If you are in good standing, you can renew for one renewal term under the then-current motor fuel agreement. Branding Agreement: If you are in good standing, you can review consistent with any renewal options available to franchisee under the Franchise Agreement.
c. Requirements for franchisee to renew or extend	Section 3.2; Section 2 of the Motor Fuel Agreement; Section 2 of Branding Agreement	Franchise Agreement: You must provide prior written notice to us; be in compliance with the Franchise Agreement; not received customer complaints regarding operation of Store; all monetary obligations must be paid in full; you must remodel your Store; sign a release; sign the then-current franchise agreement; you must have the right to lease the premises for the length of the renewal term; and you must pay us a renewal fee.  Motor Fuel Agreement: You must provide prior written notice to us; be in compliance with the Motor Fuel Agreement; renew your Franchise Agreement; not received customer complaints regarding operation of the Motor Fuel Business; all monetary obligations must be paid in full; your Motor Fuel Business must be in compliance with our then-current motor fuel branding requirements; sign a release; sign the then-current motor fuel agreement; and you must have right to lease the premises for the length of the renewal term; there is no renewal fee.  Branding Agreement: You must provide prior written notice to us; be in compliance with the Branding Agreement; meet our standard and requirements; renew your Franchise Agreement; sign a release; pay all monetary obligations owed to us or our affiliate in full; sign our then current form of Branding Agreement; there is no renewal fee. If you seek to renew your franchise at the expiration of the initial term or any renewal term, you will be required to sign a new franchise agreement that contains terms and conditions that may be materially different from those in your previous franchise agreement, such as different fee requirements and territorial rights.
d. Termination by franchisee	Not Applicable	
e. Termination by franchisor without cause	Not Applicable	
f. Termination by franchisor with cause	Article 14; Article 6 of Multiple Site Operator Agreement; Section 3.2 of Software Agreement; Section 25 of the Motor Fuel Agreement; Section 9 of the Branding Agreement	We may terminate only if you default or your premises lease is terminated or expires.
g. "Cause" defined - curable defaults	Sections 14.3 & 14.6;	Franchise Agreement: You have 5 days to cure nonpayment of fees. You have 30 days to cure other defaults except for defaults listed in Sections

Provision	Section in Franchise or other agreement*	Summary
	Section 3.2 of Software Agreement; Section 25(b) of the Motor Fuel Agreement; Section 9(a) of Branding Agreement	<p>14.1 and 14.2, which are grounds for immediate termination. In addition, if you are a Multi-Site Operator and have executed the Multi-Site Amendment, Section 12 of the Amendment limits the types of defaults of other agreements that will also constitute default of Franchise Agreement under Section 12.6.</p> <p>Software Agreement: You have 30 days to cure material breach of Software Agreement; if breach of a nature incapable of being cured in 30 days, you shall be entitled to no more than 90 days to effectuate a cure.</p> <p>Motor Fuel Agreement: You have 5 days to cure nonpayment of fees. You have 30 days to cure other defaults except for defaults listed in Section 25(a), which are grounds for immediate termination.</p> <p>Branding Agreement: You have 30 days to cure any default of the Branding Agreement except for defaults listed in Sections 11(a)(iv), (vi), (vii) or (viii), which are grounds for immediate termination.</p>
h. “Cause” defined – non-curable defaults	Sections 14.1 & 14.2; Section 6.1 of Multiple Site Operator Agreement; Sections 2.3.5 & 2.3.6 of Software Agreement; Section 25(c) of the Motor Fuel Agreement; Section 9(a) of Branding Agreement	<p>Franchise Agreement: Bankruptcy, abandonment, misconduct, fraud, repeated defaults even if cured, failure to timely open your Kangaroo Express Store, seizure of Franchised Business, felony, expiration or termination of your lease or sublease, termination of any other agreement between the parties, violation of law, material statement of untrue fact, misuse of marks, unauthorized transfer.</p> <p>Multiple Site Operator Agreement: Failure to enter into any Franchise Agreement within period set forth in minimum development schedule, (ii) failure to comply with any other terms and conditions of Multiple Site Operator Agreement, (iii) violation of transfer requirements (including minimum development schedule), (iv) termination of one of your individual Franchise Agreements, or any other agreement between you and TMC, due to your default, (v) failure to satisfy a final judgment of record for period of 30 days or longer (unless bond is filed), (vi) levy of execution against your business or property, (vii) institution of foreclosure suit against you that is not dismissed within 30 days; (viii) material misrepresentation or other misconduct that reflects unfavorably upon the Business System; (ix) conviction of, or pleading no contest to, felony, crime of moral turpitude, or other misconduct; (x) continuing violation of a law, ordinance, rule, or regulation, or (xi) bankruptcy, insolvency, appointment of receiver, or assignment for benefit of creditors.</p> <p>Software Agreement: Non-approved transfer, termination and expiration of Franchise Agreement.</p> <p>Motor Fuel Agreement: Bankruptcy, abandonment, misconduct, fraud, failure to timely open your Motor Fuel Business, seizure of the Motor Fuel Business, felony, misdemeanor or other criminal misconduct involving fraud, moral turpitude or commercial dishonesty, termination of any other agreement between the parties, violation of law, material statement of untrue fact, misuse of marks, unauthorized transfer.</p> <p>Branding Agreement: Use of Marks by franchisee or any retailer of franchisee at an unauthorized premises; franchisee fails to terminate a retailer who has breached any provision of its sublicense agreement, bankruptcy, assignment for benefit of creditors, garnishment of Branded Business.</p>
i. Franchisee’s obligations on termination / non-renewal	Section 14.7; Sections 6.2(D) & 6.3 of Multiple Site Operator Agreement; Sections 1.4, 2.3.6 & 3.3 of Software Agreement; Section 25(d) of Motor Fuel	<p>Franchise Agreement: Payment of all amounts due, including liquidated damages as applicable and any reimbursement for Equipment/Construction Funding, complete de-identification, return all copies of Business Systems Manuals and other proprietary information, cease using the Kangaroo Express Marks (also see “r” below).</p> <p>Multiple Site Operator Agreement: If terminated for any reason, you may continue operating any existing Stores under the terms of your separate</p>

Provision	Section in Franchise or other agreement*	Summary
	Agreement; Section 9(d) and (e) of Branding Agreement	<p>Franchise Agreements; Licensor may, however, charge liquidated damages.</p> <p>Subject to the above, provided you are not in default of any Franchise Agreement(s), you may continue operating applicable Stores under the terms of such Franchise Agreements.</p> <p>Otherwise, upon termination or expiration, all of your rights to establish Kangaroo Express Stores revert to TMC and you must pay TMC, within 5 days, all amounts due under the Multiple Site Operator Agreement.</p> <p>Software Agreement: Return of TMC Software with executed certificate, assignment of equipment lease or sale of equipment to TMC, payment of any fees for disconnection and removal of equipment.</p> <p>Motor Fuel Agreement: Complete de-identification and cease using the Kangaroo Express Marks, payment of all amounts due including any incentive funding and liquidated damages.</p> <p>Branding Agreement: Complete de-identification and cease using the Kangaroo Express Marks, payment of all amounts due, including liquidated damages, and, at our option, require all retailers to de-identify or cease using the Kangaroo Express Marks.</p>
j. Assignment of contract by franchisor	Section 15.1; Section 7.1 of Multiple Site Operator Agreement; Section 19(a) of Motor Fuel Agreement; Section 8(c) of Branding Agreement	<p>Franchise Agreement: No restriction on our right to assign.</p> <p>Multiple Site Operator Agreement: No restriction on our right to assign, except assignee must be able to fully perform our obligations under the Multiple Site Operator Agreement and expressly assume and agree to perform those obligations.</p> <p>Motor Fuel Agreement: No restriction on our right to assign, but must provide 10 days' advance written notice.</p> <p>Branding Agreement: No restriction on our right to assign, but must provide 10 days' advance written notice.</p>
k. "Transfer" by franchisee - defined	Section 15.2; Section 7.2 of Multiple Site Operator Agreement; Section 19(a) of Motor Fuel Agreement; Section 8(b) of the Branding Agreement	<p>Franchise Agreement: Includes transfer of interest in Franchise Agreement or assets or ownership change of more than 50%, or change in effective control as defined by Franchisor.</p> <p>Multiple Site Operator Agreement: includes transfer of any interest in Multiple Site Operator Agreement or in Multi-Site Operator entity, and must consist of a transfer of <u>all</u> of your rights under Multiple Site Operator Agreement and under all Franchise Agreements for Stores at Franchised Locations.</p> <p>Motor Fuel Agreement: includes transfer of a 25% or greater interest in franchisee and/or Motor Fuel Agreement.</p> <p>Branding Agreement: includes a transfer of a 25% or greater interest in franchisee and/or Branding Agreement.</p>
l. Franchisor approval of transfer by franchisee	Section 15.2; Section 7.2 of Multiple Site Operator Agreement; Section 3.14 of Software Agreement; Section 19(a) of Motor Fuel Agreement; Section 8(a) of Branding Agreement	<p>Franchise Agreement: We have the right to approve all transfers but will not unreasonably withhold approval.</p> <p>Multiple Site Operator Agreement, and Software Agreement: Any transfer by you is subject to our prior written consent.</p> <p>Motor Fuel Agreement: we have the right to approve all transfers but will not unreasonably withhold approval.</p> <p>Branding Agreement: we have the right to approve all transfers but will not unreasonably withhold approval.</p>
m. Conditions for franchisor approval of transfer	Section 15.2; Section 7.2 of Multiple Site Operator Agreement; Section 3.14 of Software Agreement; Section 19(a) of Motor Fuel Agreement; Section 8(a) of Branding Agreement	Franchise Agreement: New franchisee qualifies, current form of franchise agreement signed, new franchisee assumes all obligations under franchise agreement, new franchisee's operations manager and store manager successfully complete training, all amounts due us are paid, upgrades (if required) must be done to location within nine months, release signed by you, transfer fee paid, and you must have complied with all laws and secured all permits and licenses (also see "r" below).

Provision	Section in Franchise or other agreement*	Summary
		<p>Multiple Site Operator Agreement: You comply with terms and conditions of assignment under your Franchise Agreements (including payment of applicable transfer fees), and transferee demonstrates fitness as Multi-Site Operator and as operator of the Franchised Businesses.</p> <p>Software Agreement: You provide TMC at least 60 days' notice of transfer, assignee agrees to be bound by all terms of Software Agreement, and assignee is approved in writing by TMC as a Kangaroo Express franchisee.</p> <p>Motor Fuel Agreement: new franchisee qualifies, current form of motor fuel agreement signed, new franchisee assumes all obligations under motor fuel agreement, Kangaroo Express Store transferred to same franchisee, all amounts due us are paid, release signed by you, transfer fee paid.</p> <p>Branding Agreement: new franchisee meets our qualifications, current form of Branding Agreement signed, Kangaroo Express Store transferred to same franchisee, all sublicense agreements transferred to same franchisee, all amounts due us are paid and release signed.</p>
n. Franchisor's right of first refusal to acquire franchisee's business	Article 16; Section 7.2 of Multiple Site Operator Agreement; Motor Fuel Agreement, Exhibit 4	<p>Franchise Agreement: We have a right of first refusal whenever you seek to assign or transfer the franchised business. Our right is on the same terms as those contained in the third party's offer.</p> <p>Multiple Site Operator Agreement: Under Section 13 of the Multi-Site Amendment, if you intend to transfer the business assets of multiple Stores, our right of first refusal is subject to our agreement to purchase all such assets being offered by you, rather than a part thereof.</p> <p>Motor Fuel Agreement: we have a right of first refusal whenever you seek to assign or transfer the Motor Fuel Business or sell or lease the premises upon which your Motor Fuel Business is operated to a third party. Our right is on the same terms as those contained in the third party's offer. (See also "r" below)</p>
o. Franchisor's option to purchase franchisee's business	Article 16; Section 1.4 of Software Agreement	<p>Franchise Agreement: Upon termination or expiration of your lease or sublease, we have the right to purchase the inventory.</p> <p>Software Agreement: Upon default of the Software Agreement or Franchise Agreement, TMC may purchase your interest in the Equipment for its then current market value.</p>
p. Death or disability of franchisee	Section 15.4; Section 25(b) of Motor Fuel Agreement	<p>Franchise Agreement: Must be assigned by estate to approved buyer within 6 months after death or disability (see also "m" above).</p> <p>Motor Fuel Agreement: We have the right to terminate Motor Fuel Agreement.</p>
q. Non-competition covenants during the term of the franchise	Section 10.1; Article 8 of Multiple Site Operator Agreement	<p>Franchise Agreement: No involvement in competing business within 2 miles of any business conducted under the Kangaroo Express Marks without our prior consent.</p> <p>Multiple Site Operator Agreement: No involvement in business similar to or competitive with a Kangaroo Express Store without our prior consent.</p>
r. Non-competition covenants after the franchise is terminated or expires	Not Applicable; Article 8 of Multiple Site Operator Agreement; Motor Fuel Agreement, Exhibit 4	<p>Franchise Agreement: Not Applicable.</p> <p>Multiple Site Operator Agreement: For one year after termination, no involvement in competing business within 2 miles of any business conducted under the Kangaroo Express Marks without our prior consent.</p> <p>Motor Fuel Agreement: We also have a right of first refusal for a period of 1 year after the expiration or non-renewal of the Motor Fuel Agreement to meet any offer by a third party motor fuel supplier to supply fuel to you. Our right is on the same terms as those contained in the third party motor fuel supplier's offer.</p>
s. Modification of the agreement	Section 20.13; Section 11.5 of Multiple Site Operator Agreement;	Franchise Agreement: Agreement may be amended only by written agreement signed by you and TMC, but Business Systems Manuals are subject to change by TMC.

Provision	Section in Franchise or other agreement*	Summary
	Section 3.5 of Software Agreement; Section 33 of Motor Fuel Agreement; Section 11(c) of Branding Agreement	Multiple Site Operator Agreement: No waiver or consent unless in writing by granting party. Software Agreement: No modification or waiver effective unless in writing by party to be charged. Motor Fuel Agreement: No modification or waiver effective unless in writing by party to be charged. Branding Agreement: No modification or waiver effective unless in writing by party to be charged.
t. Integration/merger clause	Section 20.11; Section 3.17 of Software Agreement; Section 11.5 of Multiple Site Operator Agreement; Section 33 of Motor Fuel Agreement; Section 11(c) of Branding Agreement	Only the terms of the Franchise Agreement and its exhibits (including the Software Agreement) are binding (subject to state law). Any statements or promises not in the franchise agreement (or its exhibits) or this Disclosure Document should not be relied upon and may not be enforceable. Multiple Site Operator Agreement: Only the terms of the Multiple Site Operator Agreement, and any exhibits or documents referred to in those agreements, set forth the agreement of the parties with respect to development or conversion rights are binding (subject to state law). Any statements or promises not in the Multiple Site Operator Agreement (or its exhibits) or this Disclosure Document should not be relied upon and may not be enforceable. Motor Fuel Agreement: Only the terms of the Motor Fuel Agreement are binding (subject to state law). Any statements or promises not in the Motor Fuel Agreement or this Disclosure Document should not be relied upon and may not be enforceable. Branding Agreement: Only the terms of the Branding Agreement are binding (subject to state law). Any statements or promises not in the Branding Agreement or this Disclosure Document should not be relied upon and may not be enforceable.
u. Dispute resolution by arbitration or mediation	Article 18; Article 9 of Multiple Site Operator Agreement; Section 40 of Motor Fuel Agreement; Section 12 of Branding Agreement	All disputes must be mediated and arbitrated in the county where our corporate headquarters are located at the time of the dispute.
v. Choice of forum	Section 18.6; Section 11.3 of Multiple Site Operator Agreement; Section 41 of Motor Fuel Agreement; Section 12 of Branding Agreement	Franchise Agreement: Litigation must be in a state or federal court in the county where our corporate headquarters are located at the time of the dispute (subject to state law). Multiple Site Operator Agreement – All litigation must be venued in the state of Arizona (subject to state law).
w. Choice of law	Section 20.5; Section 11.2 of Multiple Site Operator Agreement; Section 42 of Motor Fuel Agreement; Section 12(e) of Branding Agreement	Arizona law applies (subject to state law).

\*Unless otherwise noted, Article and Section references are to the Franchise Agreement.

**NOTES:**

- (1) If you materially breach the terms of the Franchise Agreement or the lease, we will have the right to cause all of your interest, rights, title, powers, and privileges under the lease to be transferred to us.

- (2) We are not obligated under the Franchise Agreement to do so, but, if the franchise is terminated or expires, we have the right to purchase leasehold interests, fixtures, equipment, furniture, furnishings, supplies and inventory at fair market value. This policy is subject to change at any time.

**ITEM 18  
PUBLIC FIGURES**

We do not use any public figure to promote this 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 Justin Shelton at 1130 West Warner Road, Tempe, Arizona 85284, telephone number (602) 728-3958, the Federal Trade Commission, and the appropriate state regulatory agencies.

**ITEM 20  
OUTLETS AND FRANCHISEE INFORMATION**

**Table No. 1  
Systemwide Outlet Summary  
For Years 2023 – 2025**

<b>Outlet Type</b>	<b>Year</b>	<b>Outlets at the Start of the Year</b>	<b>Outlets at the End of the Year</b>	<b>Net Change</b>
Franchised Outlets	2023	100	105	+5
	2024	105	106	+1
	2025	106	102	-4
Company-Owned	2023	10	8	-2
	2024	8	7	-1
	2025	7	0	-7

Outlet Type	Year	Outlets at the Start of the Year	Outlets at the End of the Year	Net Change
Total Outlets	2023	110	113	+3
	2024	113	113	0
	2025	113	102	-11

**Table No. 2**  
**Transfers of Outlets from Franchisees to New Owners**  
**(Other than the Franchisor)**  
**For Years 2023 - 2025**

State	Year	Number of Transfers
Alabama	2023	0
	2024	0
	2025	1
Florida	2023	7
	2024	13
	2025	9
North Carolina	2023	0
	2024	2
	2025	1
South Carolina	2023	0
	2024	0
	2025	2
<b>TOTAL</b>	2023	7
	2024	15
	2025	13

**Table No. 3**  
**Status of Franchised Outlets**  
**For Years 2023 – 2025**

State	Year	Outlet at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations for Other Reasons	Outlets at the End of the Year
Alabama	2023	6	0	0	0	0	0	6
	2024	6	0	0	0	0	0	6
	2025	6	0	3	0	0	0	3
California	2023	2	0	2	0	0	0	0
	2024	0	0	0	0	0	0	0
	2025	0	0	0	0	0	0	0
Florida	2023	43	22	2	0	0	0	63
	2024	63	3	0	0	0	0	66
	2025	66	2	2	0	0	0	66
Georgia	2023	2	0	1	0	0	0	1
	2024	1	0	0	0	0	0	1
	2025	1	0	0	0	0	0	1

State	Year	Outlet at Start of Year	Outlets Opened	Terminations	Non-Renewals	Reacquired by Franchisor	Ceased Operations for Other Reasons	Outlets at the End of the Year
Louisiana	2023	27	3	13	0	0	0	17
	2024	17	0	0	0	0	0	17
	2025	17	0	0	0	0	0	17
Massachusetts	2023	1	0	0	0	0	0	1
	2024	1	0	0	0	0	0	1
	2025	1	0	1	0	0	0	0
North Carolina	2023	8	1	0	0	0	0	9
	2024	9	0	1	0	0	0	8
	2025	8	0	0	0	0	0	8
South Carolina	2023	8	0	2	0	0	0	6
	2024	6	0	1	0	0	0	5
	2025	5		0	0	0	0	5
Tennessee	2023	2	0	0	0	0	0	2
	2024	2	0	0	0	0	0	2
	2025	2	0	0	0	0	0	2
Virginia	2023	1	0	1	0	0	0	0
	2024	0	0	0	0	0	0	0
	2025	0	0	0	0	0	0	0
<b>Total</b>	2023	100	26	21	0	0	0	105
	2024	105	3	2	0	0	0	106
	2025	106	2	6	0	0	0	102

**Table No. 4  
Status of Company-Owned Outlets  
For Years 2023 - 2025**

State	Year	Outlets at Start of the Year	Outlets Opened	Outlets Reacquired from Franchisee	Outlets Closed *	Outlets Sold to Franchisee	Outlets at End of the Year
Georgia	2023	4	0	0	1	0	3
	2024	3	0	0	0	0	3
	2025	3	0	0	3	0	0
North Carolina	2023	5	0	0	1	0	4
	2024	4	0	0	0	0	4
	2025	4	0	0	4	0	0
South Carolina	2023	1	0	0	0	0	1
	2024	1	0	0	1	0	0
	2025	0	0	0	0	0	0
<b>Total</b>	2023	10	0	0	2	0	8
	2024	8	0	0	1	0	7
	2025	7	0	0	7	0	0

**Table No. 5**  
**Projected Openings as of April 27, 2025**

State	Franchise Agreements Signed but Business not Opened	Projected Franchised New Business in the Next Fiscal Year	Projected Company-Owned Openings in Next Fiscal Year
Alabama	1	0	0
California	1	0	0
Florida	8	1	0
Georgia	1	0	0
Louisiana	7	0	0
<b>Total</b>	<b>18</b>	<b>1</b>	<b>0</b>

Exhibit A lists the names of all of our operating franchisees and the addresses and telephone numbers of their businesses as of April 27, 2025. Exhibit A also lists the franchisees who have signed Franchise Agreements for stores that were not yet operational as of April 27, 2025. Finally, Exhibit A lists the name, city and state, and business telephone number of every franchisee who had an outlet terminated, cancelled, not renewed, or otherwise voluntarily or involuntarily ceased to do business under a Franchise Agreement during the most recently completed fiscal year, or who has not communicated with us within the last ten weeks. 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, we have signed confidentiality clauses with current and former franchisees. In some instances, current and former franchisees sign provisions restricting their ability to speak openly about their experience with the Kangaroo Express franchise system. You may wish to speak with current and former franchisees, but be aware that not all such franchisees will be able to communicate with you.

In April 2016, we created our Franchise Advisory Council. It does not maintain a separate address, email address or other contact information. We are not aware of any other trademark-specific franchisee organization associated with the franchise that is required to be included in this disclosure document.

## ITEM 21 FINANCIAL STATEMENTS

Attached to this Disclosure Document as Exhibit B are our audited consolidated financial statements which comprise the consolidated balance sheets as of April 27, 2025 and April 28, 2024, and the related consolidated statements of income and comprehensive income, changes in shareholder's equity, and cash flows for the periods ended April 27, 2025, April 28, 2024, and April 30, 2023.

## ITEM 22 CONTRACTS

The contracts we use in this state are exhibits to this Disclosure Document as follows:

Exhibit E. FRANCHISE ACKNOWLEDGMENT ADDENDUM

- Exhibit F.      FRANCHISE AGREEMENT
  - Exhibit 1      Data Sheet
  - Exhibit 2      Electronic Point of Sale and Software Agreement
  - Exhibit 3      Electronic Funds Transfer Authorization
  - Exhibit 4      Equipment/Construction Funding Agreement
  - Exhibit 5      Personal Guaranty
  - Exhibit 6      Credit Network Agreement
- Exhibit G.      MULTIPLE SITE OPERATOR AGREEMENT
  - Exhibit 1      Franchised Locations
  - Exhibit 2      Franchise Agreement
  - Exhibit 3      Amendment to Franchise Agreement for Multi-Site Operators
  - Exhibit 4      Personal Guaranty
- Exhibit H.      MOTOR FUEL AGREEMENT
  - Exhibit 1      Security Deposit Agreement
  - Exhibit 2      Credit Network Agreement
  - Exhibit 3      Incentive and Amortization Agreement, with exhibits  
(Exhibit A – Promissory Note; Exhibit B – Security Agreement)
- Exhibit I.      KANGAROO EXPRESS BRANDING AGREEMENT
  - Exhibit 1      Proprietary Marks
  - Exhibit 2      EFT Authorization
  - Exhibit 3      Credit Network Agreement
- Exhibit J.      SAMPLE TERMINATION AND RELEASE AGREEMENTS
  - Exhibit J-1    Termination and Release Agreement (Franchise Agreement)
  - Exhibit J-2    Termination and Release Agreement (Motor Fuel Agreement)
- Exhibit K.      PERSONAL GUARANTY
- Exhibit L.      RENEWAL ADDENDUM
- Exhibit M.      STATE ADDENDA

**ITEM 23  
RECEIPTS**

You will find two Receipt pages at the end of this Disclosure Document under the tab marked “Receipts”. You must sign and date both copies of the Receipt. Please retain the copy titled “Prospective Franchisee Copy” for your records and return the copy titled “TMC Franchise Corporation Copy” as directed by your TMC Franchise Corporation representative.

**EXHIBIT A**

List of Franchised Outlets

**LIST OF CONVENIENCE STORE FRANCHISEES AT APRIL 27, 2025**

Store #	Franchisee Name	Address	City	State	Zip	Phone
2658173	Gas Express, LLC	1684 S College Street	Auburn	AL	36382	(334) 246-3022
2658191	Cottage Hill Food Mart Inc	7102 Cottage Hill Road	Mobile	AL	36695	334-587-9936
2658175	Gas Express, LLC	2906 Atlanta Highway	Montgomery	AL	36109	(404) 809-4923
2658265	Shahid 11 LLC	277 E Main St	Apopka	FL	32703	
2658261	Beach Food Post, Inc.	1600 Mayport Road	Atlantic Beach	FL	32233	(904) 249-4454
2658193	Friends 3 LLC	1081 US 301 South	Baldwin	FL	32234	229-412-3123
2658172	Bradenton 1220 LLC	1220 1st Street W	Bradenton	FL	34208	917-960-4309
2658241	Shahid 9 LLC	3312 53rd Avenue E	Bradenton	FL	34203	(941) 251-4954
2658139	APEC Foods LLC	612 W Lumsden Road	Brandon	FL	33511	(813) 924-1334
2658014	PHR Starke LLC	392 N Hathaway Ave.	Bronson	FL	32621	559-273-9848
2658143	AMI 78 LLC	7175 N Highway 1	Cocoa	FL	32927	(770) 815-4727
2658247	APEC Foods, LLC	3990 Lake Drive	Cocoa	FL	32926	(813) 681-4279
2658011	Shell Point Corner LLC	4766 Coastal Highway	Crawfordville	FL	32327	850 926 6310
2658245	Shahid 7 LLC	201 Main Street	Daytona Beach	FL	32118	228-213-0053
2658255	Marathon Stop, LLC	12901 E US Hwy 92	Dover	FL	33527	
2658235	Shree Swami Hari Krupa, Inc	11946 N Williams Street	Dunnellon	FL	34432	
2658266	Together Market 001 Inc	925 S. 14th St	Fernandina Beach	FL	32034	615-319-7029
2658181	Jaymitt LLC	2240 Park 82 Drive	Fort Myers	FL	33905	9239) 771-8842
2658237	APEC Foods, LLC	1624 Delaware Avenue	Fort Pierce	FL	34950	(813) 681-4279
2658018	Super America, LLC	2152 NW 39th Ave.	Gainesville	FL	32605	(352) 745-7152
2658268	Semoj 19 LLC	2000 State Road 16	Green Cove Springs	FL	32043	848-248-9568
2658248	APEC Foods, LLC	207 Scenic Highway S	Haines City	FL	33844	(813) 681-4279
2658269	Automated Petroleum and Energy Company, Inc	19531 NW US Highway 441	High Springs	FL	32643	(813) 681-4279
2658272	Automated Petroleum and Energy Company, Inc	11985 Beach Blvd	Jacksonville	FL	32246	(813) 681-4279
2658273	Automated Petroleum and Energy Company, Inc	9615 Heckscher Dr	Jacksonville	FL	32226	(813) 681-4279

**LIST OF CONVENIENCE STORE FRANCHISEES AT APRIL 27, 2025**

Store #	Franchisee Name	Address	City	State	Zip	Phone
2658274	Arohan Corp	3051 Monument Rd	Jacksonville	FL	32225	(904) 551-5946
2658260	Beach Food Post, Inc.	7148 Phillips Highway	Jacksonville	FL	32256	(904) 619-6854
2658192	Sam's Jax Inc.	2810 State Road A1A	Jacksonville	FL	32233	904-343-6008
2658200	Friends 1, LLC	1790 State Road 13	Jacksonville	FL	32259	229-412-3123
2658271	Marouani LLC	1310 S 3rd St S	Jacksonville Beach	FL	32250	(904) 372-0678
2658270	Waka Waka 1 Food Solutions LLC	1403 3rd St N	Jacksonville Beach	FL	32250	972-832-8509
2658242	Nigam Shiv Inc	1700 N Thacker Avenue	Kissimmee	FL	34741	321-301-5982
2655695	JS & HS LLC	901 E Vine Street	Kissimmee	FL	34744	(407) 201-8190
2658239	Nilkanth Varni Krupa, Inc.	4415 Old Kathleen Road	Lakeland	FL	33810	
2658047	PMS 100 LLC	2100 W Memorial Boulevard	Lakeland	FL	33815	(863) 225-5771
2658064	American Eagle Petroleum	5545 Ulmerton Rd	Largo	FL	33760	727-623-9303
2654216	APEC Foods, LLC	12601 Starkey Road	Largo	FL	33773	(727) 507-4645
2655225	APEC Foods, LLC	1331 W. North Boulevard	Leesburg	FL	34748	(351) 801-7497
2658179	Ghaneshay 02 LLC	1705 E Main Street	Leesburg	FL	34748	(352) 901-6113
2654150	APEC Foods, LLC	11025 US 441	LEESBURG	FL	34788	(813) 681-4279
2658243	APEC Foods, LLC	2498 Turpentine Road	Mims	FL	32754	(813) 681-4279
2658246	APEC Foods, LLC	3164 Main Street W	Mims	FL	32754	(813) 681-4279
2658236	Three Brothers Food Mart of Naples Inc	12800 E Tamiami Trail E	Naples	FL	34114	(941) 210-3501
2658244	Shahid 8 LLC	2600 N Dixie Freeway	New Smyrna Beach	FL	32168	(386) 402-8963
2658275	Ghaneshay 05 LLC	1150 Ocean Shore Blvd	Ormond Beach	FL	32176	334-300-9546
2658199	Sam's Jax Inc	2803 Silver Lake Drive	Palatka	FL	32177	904-343-6008
2658201	Shiv PCK Investment LLC	2020 W Cervantes Street	Pensacola	FL	32501	(850) 429-9567

**LIST OF CONVENIENCE STORE FRANCHISEES AT APRIL 27, 2025**

Store #	Franchisee Name	Address	City	State	Zip	Phone
2658202	Shiv PCK Investment LLC	5050 Mobile Highway	Pensacola	FL	32506	(850) 456-5674
2658203	Sairam Holding LLC	502 E Burgess Road	Pensacola	FL	32504	850-867-0587
2658204	Shiv PCK Investment LLC	2700 Gulf Beach Highway	Pensacola	FL	32507	(850) 458-0986
2658240	Florida Food and Gas, LLC	4704 W Trapnell Road	Plant City	FL	33566	
2658089	Atwater Mobil Inc	20520 Veterans Blvd	Port Charlotte	FL	33954	(941) 764.8782
2658078	Norco Group, Corp	900 KINGS HWY	PUNTA GORDA	FL	33980	(787) 448-5985
2658077	Eclipse First Coast Investments II, LLC	967 State Road 16	Saint Augustine	FL	32084	(904) 217-8253
2658015	HMRAJS FLA, LLC	7499 County Road 427	Sanford	FL	32773	407-320-7020
2658180	Blue Light Retail Inc	4405 N Washington Blvd	Sarasota	FL	34234	(941) 210-3501
2658189	Shahid 10 LLC	77 S Tuttle Avenue	Sarasota	FL	34237	(941) 953-1868
2658006	Knight's Store, Inc.	4350 Bee Ridge Road	Sarasota	FL	34233	(941) 371-1315
2658188	APEC Foods, LLC	9097 Starkey Road	Seminole	FL	33777	(813) 681-4279
2658277	LE PONT LLC	8650 131st St N	Seminole	FL	33776	727-215-3637
2658262	Super Petroleum 11 LLC	4707 Commercial Way	Spring Hill	FL	34606	(954) 993-2044
2658279	Automated Petroleum and Energy Company, Inc	5244 Mariner Blvd	Spring Hill	FL	34609	(813) 681-4279
2658259	Automated Petroleum and Energy Company, Inc	17519 Bruce B. Downs Blvd	Tampa	FL	33647	(813) 681-4279
2658038	Success Fuel, LLC	2812 Kennedy Boulevard	Tampa	FL	33609	(813) 374-4748
2658238	Varnikrupa Inc.	5901 Memorial Highway	Tampa	FL	33615	813-888-7583
2658278	Automated Petroleum and Energy Company, Inc	200 Cheney Hwy	Titusville	FL	32780	(813) 681-4279
2658198	Sam's Jax Inc	700 3rd Avenue	Welaka	FL	32193	904-343-6008
2658194	Sam's Jax Inc	850378 US Highway 17	Yulee	FL	32097	904-343-6008
2658167	Myra Matt Inc	6512 Gall Blvd	Zephyrhills	FL	33542	(813) 602-8907
2658019	Pragat Swami. LLC	2622 Chattanooga Rd	Rocky Face	GA	30740	(706) 428-3065
2658039	GX Louisiana, LLC	12390 Scotland	Baton Rouge	LA	70807	(404) 809-4923

**LIST OF CONVENIENCE STORE FRANCHISEES AT APRIL 27, 2025**

Store #	Franchisee Name	Address	City	State	Zip	Phone
		Avenue, Suite 100				
2658040	GX Louisiana, LLC	8235 Scenic Highway	Baton Rouge	LA	70807	(404) 809-4923
2658041	GX Louisiana, LLC	13315 Old Hammond Highway	Baton Rouge	LA	70816	(404) 809-4923
2658042	GX Louisiana, LLC	6103 Florida Boulevard, Suite C	Baton Rouge	LA	70806	(404) 809-4923
2658043	GX Louisiana, LLC	3015 Millerville Road	Baton Rouge	LA	70816	(404) 809-4923
2658044	GX Louisiana, LLC	2915 Highland Road	Baton Rouge	LA	70802	(404) 809-4923
2658045	GX Louisiana, LLC	2382 N Lobdell Boulevard	Baton Rouge	LA	70806	(404) 809-4923
2658051	GX Louisiana, LLC	11720 Plank Road	Baton Rouge	LA	70811	(404) 809-4923
2658056	GX Louisiana, LLC	3636 N Sherwood Forest Drive	Baton Rouge	LA	70814	(404) 809-4923
2658059	GX Louisiana, LLC	6224 Plank Road	Baton Rouge	LA	70805	(404) 809-4923
2658060	GX Louisiana, LLC	6404 Hooper Road	Baton Rouge	LA	70811	(404) 809-4923
2658171	GX Louisiana, LLC	8967 Jefferson Highway	Baton Rouge	LA	70809	(404) 809-4923
2658058	GX Louisiana	1000 Florida Blvd	Denham Springs	LA	70726	(404) 809-4923
2658169	GX Louisiana, LLC	38507 Louisiana Highway	Gonzales	LA	70737	(404) 809-4923
2658049	GX Louisiana, LLC	1119 E McNeese Street	Lake Charles	LA	70607	(404) 809-4923
2658050	GX Louisiana, LLC	1717 Gerstner Memorial Drive	Lake Charles	LA	70601	(404) 809-4923
2658170	GX Louisiana, LLC	642 Belle Terre Blvd	Laplace	LA	70068	(404) 809-4923
2658065	Independant Z Inc.	354 Arsenal Street	Watertown	MA	02472	(617) 744-5151
2658174	TA&S Enterprises of NC, Inc	3800 Wilkinson Blvd.	Charlotte	NC	28208	(980) 236-7699
2658224	APEX Petroleum Inc.	7255 Albemarle Road	Charlotte	NC	28227	0
2658225	Saturn Petroleum Inc	507 Old Little Rock Road	Charlotte	NC	28214	0
2658257	TA&S Enterprises of NC, Inc.	4900 N Tyron Street	Charlotte	NC	28213	704-232-3600

**LIST OF CONVENIENCE STORE FRANCHISEES AT APRIL 27, 2025**

Store #	Franchisee Name	Address	City	State	Zip	Phone
2658141	Quick On the Way Greensboro, LLC	2522 Randleman Road	Greensboro	NC	27406	(973) 602-7273
2658142	Quick On the Way Liberty, LLC	127 E Swannonoa Avenue	Liberty	NC	27298	(973) 602-7273
2658223	Saturn Mart Inc.	264 E. Main Street	Rockwell	NC	28138	919 819 4343
2658140	Quick On the Way Winston Salem, LLC	4001 Brownsboro Road	Winston Salem	NC	27106	(973) 602-7273
2658217	Radhe Krishna 2024 LL	1814 Woodruff Road	Greenville	SC	29607	320-282-9620
2658216	K AT JohnB LLC	1505 John B White Sr. Boulevard	Spartanburg	SC	29306	470-418-0600
2658218	MM CS Services, LLC	3950 Augusta Road	West Columbia	SC	29170	770-338-2620
2658219	MM CS Services, LLC	1190 Sunset Boulevard	West Columbia	SC	29169	770-338-2620
2658220	MM CS Services, LLC	3504 Charleston Highway	West Columbia	SC	29172	770-338-2620
2658010	Reliable Food and Fuel, Inc	5984 Stage Rd	Bartlett	TN	38134	(901) 623-7804
2658008	Reliable Food and Fuel, Inc	1974 Whitten Rd	Memphis	TN	38117	(901) 937-0455

**CONVENIENCE STORE FRANCHISEE AGREEMENTS SIGNED BUT OUTLET NOT YET OPEN**

Store #	Franchisee Name	Address	City	State	Zip	Phone
2658263	Gas Express, LLC	2111 McLemore Drive	Montgomery	Alabama	36117	404-809-4923
2655990	French Valley Crossings, LP	SWC Winchester Road / Hwy 79 and Benford Road / Clinton Keith Road	Murrieta	California	92563	714-231-8942
2658285	APEC Foods, LLC	971 W International Speedway Blvd.	Daytona Beach	Florida	32114	813-681-4279
2658284	Automated Petroleum and Energy Company, Incorporated	3437 US Highway 98 N	Lakeland	Florida	33809	813-681-4279
2658280	Automated Petroleum and Energy Company, Incorporated	111 Marcum Road	Lakeland	Florida	33809	813-681-4279
2654412	Automated Petroleum and Energy Company, Incorporated	US Highway 41 & 69th St East	Palmetto	Florida	34221	813-681-4279
2658287	APEC Foods, LLC	4590 S. Ridgewood Ave.	Port Orange	Florida	32127	813-681-4279
2658251	Automated Petroleum and Energy Company, Incorporated	2173 SW Gatlin Blvd.	Port St Lucie	Florida	34953	813-681-4279

CONVENIENCE STORE FRANCHISEE AGREEMENTS SIGNED BUT OUTLET NOT YET OPEN						
Store #	Franchisee Name	Address	City	State	Zip	Phone
2658282	Automated Petroleum and Energy Company, Incorporated	32725 State Road 52	San Antonio	Florida	33576	813-681-4279
2658283	APEC Foods, LLC	861 E. State Road 44	Wildwood	Florida	34785	813-681-4279
2658286	Gas Express, LLC	1054 US Hwy 82 E.	Tifton	Georgia	31794	404-809-4923
2658072	GX Louisiana LLC	4903 Airline Dr	Bossier City	Louisiana	71111	404-809-4923
2658054	GX Louisiana LLC	2264 Barksdale Blvd	Bossier City	Louisiana	71112	404-809-4923
2658057	GX Louisiana LLC	2700 N University	Lafayette	Louisiana	70507	404-809-4923
2658055	GX Louisiana LLC	1201 S 2nd ST	Monroe	Louisiana	71201	404-809-4923
2658048	GX Louisiana LLC	304 S Lewis St	New Iberia	Louisiana	90560	404-809-4923
2658053	GX Louisiana LLC	2450 Lakeshore Dr	Shreveport	Louisiana	71103	404-809-4923
2658052	GX Louisiana LLC	1416 Hollywood Ave	Shreveport	Louisiana	71108	404-809-4923

CONVENIENCE STORE FRANCHISEES WHO LEFT THE SYSTEM DURING LAST FISCAL YEAR						
Franchisee Name	Address	City	St	Zip	Phone	
Fatah LLC	301 Robert Jemison Rd	Birmingham	Alabama	35209	404-512-2786	
Masjid LLC	2803 Pinson Valley Pkwy	Birmingham	Alabama	35217	404-512-2786	
Saboor LLC	7994 Helena Rd	Pelham	Alabama	35124	404-512-2786	
APEC Foods, LLC	1177 W Commercial Blvd	Fort Lauderdale	Florida	33309	813-681-4279	
Om Namu Hanumante Inc.	17449 Gulf Blvd	Redington Shores	Florida	33708	813-270-0901	
Independent Z Inc.	354 Arsenal St	Watertown	Massachusetts	02472	617-763-4529	

**EXHIBIT B**

Consolidated Financial Statements

**TMC FRANCHISE CORPORATION**  
**(a wholly owned subsidiary of Circle K Stores Inc.)**  
**CONSOLIDATED FINANCIAL STATEMENTS**

**AS OF APRIL 27, 2025 AND APRIL 28, 2024,**

**AND FOR THE YEARS ENDED APRIL 27, 2025, APRIL 28, 2024, APRIL 30, 2023**



## **Report of Independent Auditors**

To the Board of Directors of TMC Franchise Corporation

### ***Opinion***

We have audited the accompanying consolidated financial statements of TMC Franchise Corporation and its subsidiary (the Company), which comprise the consolidated balance sheets as of April 27, 2025 and April 28, 2024, and the related consolidated statements of income and comprehensive income, changes in shareholder's equity and cash flows for the years ended April 27, 2025, April 28, 2024 and April 30, 2023, including the related notes (collectively referred to as, the consolidated financial statements).

In our opinion, the accompanying consolidated financial statements present fairly, in all material respects, the financial position of the Company as of April 27, 2025 and April 28, 2024, and the results of its operations and its cash flows for the years ended April 27, 2025, April 28, 2024 and April 30, 2023 in accordance with accounting principles generally accepted in the United States of America.

### ***Basis for Opinion***

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

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

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

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

### ***Auditors' Responsibilities for the Audit of the Consolidated Financial Statements***

Our objectives are to obtain reasonable assurance about whether the consolidated financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute

PricewaterhouseCoopers LLP  
1250 René-Lévesque Boulevard West, Suite 2500, Montréal, Quebec, Canada H3B 4Y1  
T.: +1 514 205 5000, F.: +1 514 876 1502, Fax to mail: ca\_montreal\_main\_fax@pwc.com

"PwC" refers to PricewaterhouseCoopers LLP, an Ontario limited liability partnership.



assurance and therefore is not a guarantee that an audit conducted in accordance with US GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the consolidated financial statements.

In performing an audit in accordance with US GAAS, we:

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

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

*PricewaterhouseCoopers LLP<sup>1</sup>*

Montréal, Canada  
July 7, 2025

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<sup>1</sup> CPA Auditor, public accountancy permit No. A123475

**TMC FRANCHISE CORPORATION**  
**(a wholly owned subsidiary of Circle K Stores Inc.)**  
**CONSOLIDATED BALANCE SHEETS**

	<u>April 27, 2025</u>	<u>April 28, 2024</u>
<b>ASSETS</b>		
Cash	\$ -	\$ -
Royalty and other receivables	11,184,013	8,632,081
Deferred income taxes (Note 3)	2,603,791	2,827,683
Total Current Assets	13,787,804	11,459,764
Property and equipment, net (Note 4)	12,287,489	14,462,542
Intangible assets, net (Note 5)	10,640,706	14,399,954
Note receivable from parent company (Note 8)	5,000,000	5,000,000
Other assets (net of a provision for doubtful accounts of \$20,814 and \$20,814 as at April 27, 2025, and April 28, 2024 (Note 6)	19,353,216	18,074,122
Goodwill	11,490,467	11,490,467
Total Assets	\$ 72,559,682	\$ 74,886,849
<b>LIABILITIES AND SHAREHOLDER'S EQUITY</b>		
Accounts payable and accrued liabilities (Note 7)	\$ 27,642,008	\$ 30,818,812
Payable to affiliate	2,450,540	2,333,349
Deferred revenue	1,228,332	1,247,292
Total Current Liabilities	31,320,880	34,399,453
Deferred revenue	6,992,157	7,720,471
Deferred income taxes (Note 3)	2,396,831	3,224,997
Total Liabilities	40,709,868	45,344,921
Shareholder's Equity:		
Common stock, \$0.01 par value, 1,000,000 shares authorized, 1,001 issued and outstanding	10	10
Additional paid-in capital	88,201,000	88,201,000
Receivable from parent	(91,667,564)	(93,887,235)
Retained earnings	35,316,368	35,228,153
Total Shareholder's Equity	31,849,814	29,541,928
	\$ 72,559,682	\$ 74,886,849

*The accompanying notes are an integral part of these consolidated financial statements.*

**TMC FRANCHISE CORPORATION**  
**(a wholly owned subsidiary of Circle K Stores Inc.)**  
**CONSOLIDATED STATEMENTS OF INCOME AND COMPREHENSIVE INCOME**

	Year Ended April 27, 2025	Year Ended April 28, 2024	Year Ended April 30, 2023
Revenues:			
Initial franchise sales	\$ 1,036,157	\$ 1,030,058	\$ 1,076,538
Royalty and promotional fees	59,421,781	60,722,633	63,929,364
Fuel sales, net	4,205,466	2,723,519	2,044,397
Interest and other income	6,503,683	5,867,604	4,357,577
Total Revenues	71,167,087	70,343,814	71,407,876
Expenses:			
Selling, general, and administrative expenses	37,295,957	36,565,205	33,600,199
Trademark expense	391,871	408,796	447,750
Depreciation and amortization expense	7,776,052	8,959,374	8,449,524
Total Expenses	45,463,880	45,933,375	42,497,473
(Loss) Gain on Disposals and Terminations	(7,610)	(1,541,825)	38,139
Income before income taxes	25,695,597	22,868,614	28,948,542
Provision for income taxes	6,607,382	7,582,373	7,547,431
Net Income and Comprehensive Income	\$ 19,088,215	\$ 15,286,241	\$ 21,401,111

*The accompanying notes are an integral part of these consolidated financial statements.*

**TMC FRANCHISE CORPORATION**  
**(a wholly owned subsidiary of Circle K Stores Inc.)**  
**CONSOLIDATED STATEMENTS OF CHANGES IN SHAREHOLDER'S EQUITY**

	<b>Common Stock</b>		<b>Additional Paid-in Capital</b>	<b>Receivable from Parent</b>	<b>Retained Earnings</b>	<b>Total</b>
	<b>Shares</b>	<b>Amount</b>				
April 24, 2022	1,001	\$ 10	\$ 88,201,000	\$ (78,691,712)	\$ 33,040,801	\$ 42,550,099
Net income and comprehensive income	-	\$ -	\$ -	\$ -	\$ 21,401,111	\$ 21,401,111
Net advances to parent	-	\$ -	\$ -	\$ (28,129,347)	\$ -	\$ (28,129,347)
Dividends	-	\$ -	\$ -	\$ 16,500,000	\$ (16,500,000)	\$ -
April 30, 2023	1,001	\$ 10	\$ 88,201,000	\$ (90,321,059)	\$ 37,941,912	\$ 35,821,863
Net income and comprehensive income	-	\$ -	\$ -	\$ -	\$ 15,286,241	\$ 15,286,241
Net advances to parent	-	\$ -	\$ -	\$ (21,566,176)	\$ -	\$ (21,566,176)
Dividends	-	\$ -	\$ -	\$ 18,000,000	\$ (18,000,000)	\$ -
April 28, 2024	1,001	\$ 10	\$ 88,201,000	\$ (93,887,235)	\$ 35,228,153	\$ 29,541,928
Net income and comprehensive income	-	\$ -	\$ -	\$ -	\$ 19,088,215	\$ 19,088,215
Net advances to parent	-	\$ -	\$ -	\$ (16,780,329)	\$ -	\$ (16,780,329)
Dividends	-	\$ -	\$ -	\$ 19,000,000	\$ (19,000,000)	\$ -
April 27, 2025	1,001	\$ 10	\$ 88,201,000	\$ (91,667,564)	\$ 35,316,368	\$ 31,849,814

*The accompanying notes are an integral part of these consolidated financial statements.*

**TMC FRANCHISE CORPORATION**  
**(a wholly owned subsidiary of Circle K Stores Inc.)**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**

	Year Ended April 27, 2025	Year Ended April 28, 2024	Year Ended April 30, 2023
Cash Flows from Operating Activities:			
Net income and comprehensive income	\$ 19,088,215	\$ 15,286,241	\$ 21,401,111
Adjustments to reconcile net income and comprehensive income to net cash provided by operating activities:			
Depreciation and amortization expense	7,776,052	8,959,374	8,449,524
Loss (Gain) on Disposals and Terminations	7,610	1,541,825	(38,139)
Amortization of notes receivable from franchisees and of other assets	3,054,368	2,115,617	773,839
Change in royalty and other receivables	(2,551,932)	1,512,943	4,366,021
Change in current liabilities	(3,059,613)	3,268,261	919,930
Change in deferred income taxes	(604,274)	648,289	(833,362)
Change in deferred revenue	(747,274)	(995,740)	(847,564)
Net Cash Provided by Operating Activities	<u>22,963,152</u>	<u>32,336,810</u>	<u>34,191,360</u>
Cash Flows from Investing Activities:			
Purchase of property and equipment and intangibles	(1,519,340)	(2,998,898)	(924,915)
Proceeds on disposal of property and equipment	247,489	556,366	991,098
Purchase of other assets (Note 6)	(4,584,922)	(8,059,530)	(6,128,196)
Net Cash Used for Investing Activities	<u>(5,856,773)</u>	<u>(10,502,062)</u>	<u>(6,062,013)</u>
Cash Flows from Financing Activities:			
Net advances to parent	(17,106,379)	(21,834,748)	(28,129,347)
Net Cash Used for Financing Activities	<u>(17,106,379)</u>	<u>(21,834,748)</u>	<u>(28,129,347)</u>
Net Change in Cash	-	-	-
Cash at Beginning of Year	-	-	-
Cash at End of Year	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Non-cash investing and financing activities:			
Transfer of property, equipment, and other assets through payable to parent	\$ 577,510	\$ 268,572	\$ -
Payment of dividends through reduction of receivable from parent	19,000,000	18,000,000	16,500,000
Supplemental Information:			
Income taxes paid	\$ 1,510,605	\$ 734,753	\$ 1,043,178

*The accompanying notes are an integral part of these consolidated financial statements.*

**TMC FRANCHISE CORPORATION**  
**(a wholly owned subsidiary of Circle K Stores Inc.)**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**  
**AS OF APRIL 27, 2025, AND APRIL 28, 2024, AND**  
**FOR THE YEARS ENDED**  
**APRIL 27, 2025, APRIL 28, 2024, APRIL 30, 2023**

**1. Organization and Significant Accounting Policies**

*Organization*

TMC Franchise Corporation (the “Company”), incorporated in the State of Arizona on February 7, 1995, is a franchisor of convenience stores. The Company is a wholly owned subsidiary of Circle K Stores Inc. (“Circle K Stores”), which is a wholly owned subsidiary of Circle K Delaware Inc., which is a wholly owned subsidiary of Couche-Tard U.S. Inc. (“CTUS Inc”), which is a wholly owned subsidiary of Mac’s Convenience Stores, Inc., which is a wholly owned subsidiary of Couche-Tard Inc. Couche-Tard Inc. is wholly owned by the ultimate parent, Alimentation Couche-Tard, Inc. (“Couche-Tard”).

*Basis of Consolidated Financial Statements*

These consolidated financial statements are prepared in accordance with accounting principles generally accepted in the United States (“US GAAP”) on the historical cost basis of accounting and include the accounts of the Company and its wholly owned subsidiary *Holiday Diversified Services, LLC*. Certain selling, general and administrative (“SG&A”) services are provided to the Company by Couche-Tard or Circle K Stores and their affiliates. Certain other SG&A services are allocated to the Company based on usage, actual costs, or other allocation methods considered reasonable by Couche-Tard or Circle K management (note 9). Accordingly, the expenses included in these consolidated financial statements may not be indicative of the level of expenses which might have been incurred had the Company been operating as a separate stand-alone company.

*Year-End Date*

The Company’s year-end is the last Sunday of April of each year. The years ended April 27, 2025, April 28, 2024, and April 30, 2023, are referred to herein as 2025, 2024 and 2023.

*Use of Estimates*

The preparation of consolidated financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. The more significant areas requiring the use of management estimates include receivable valuation, deferred revenue and revenue recognition, asset useful lives for depreciation and amortization, and deferred income taxes. Actual results could differ from those estimates.

*Revenue Recognition*

Revenues consist of initial franchise sales, royalty and promotional fees, fuel sales, net, and interest and other income. Initial franchise sales are recognized when all material services and conditions relating to the sale have been substantially completed. Royalty and promotional fees are received subsequent to the period earned and are accrued based on management estimates. Royalty fees are calculated as a contractual percentage of merchandise gross sales and fuel gallons sold. Promotional fees are calculated as a contractual percentage of merchandise gross sales. Fuel sales, net is recognized at the time of delivery and are presented on a net basis as the Company acts as an agent for Circle K Stores. Interest and other income are recognized when earned, as defined by the underlying notes. Revenue is recognized only when collection is reasonably assured.

### *Income Taxes*

The Company is included in the consolidated federal income tax returns of CTUS Inc. The income tax expense or benefit is computed based on income before income taxes reported in these consolidated financial statements as if the Company was a separate taxpayer, with the resulting current taxes payable or receivable included in Receivable from parent on the balance sheet within shareholder's equity.

The Company uses the asset and liability method to account for income taxes. Under this method, deferred income tax assets and liabilities are determined based on differences between the carrying amounts and tax bases of assets and liabilities using enacted tax rates and laws, as appropriate, at the date of the consolidated financial statements for the years in which the temporary differences are expected to reverse.

### *Property and Equipment*

Property and equipment are carried at cost, less accumulated depreciation. Depreciation is provided over the estimated useful lives of the respective classes of assets using the straight-line method. Leasehold improvements, equipment, and signs are depreciated over a period of three to ten years. Expenditures that materially increase values, change capacities or extend useful lives are capitalized. Routine maintenance and repairs are expensed. Gains and losses on disposal of assets are reflected in results of operations.

Property and equipment are tested for impairment should events or circumstances indicate that their book value may not be recoverable, as measured by comparing their net book value to the estimated undiscounted future cash flows generated by their use and eventual disposal. Should the carrying amount of long-lived assets exceed their fair value, an impairment loss in the amount of the excess would be recognized.

### *Other Assets*

Deferred construction allowances are amortized on a straight-line basis over a period of up to ten years. Deferred incentive payments are amortized in accordance with the amortization schedules included in the corresponding incentive agreements.

### *Intangible Assets*

Intangible assets mainly comprise of tradename and franchise contracts. The tradename has an indefinite life, is recorded at cost, is not amortized and is tested for impairment annually, or more frequently should events or changes in circumstances indicate that it might be impaired. Franchise contracts are amortized using the straight-line method over the life of the agreements.

### *Goodwill and Impairment*

Goodwill is the excess of the cost of an acquired business over the fair value of the underlying net assets acquired from the business at the time of the acquisition. Goodwill is not amortized. In accordance with FASB's Accounting Standards Update No. 2011-08, the Company tests for goodwill impairment annually.

### *Deferred Revenue*

Deferred revenue consists of the initial franchise fees. It is collected in advance of the period in which all material services and conditions relating to the fee have been substantially completed. When all services and conditions have been completed, 25% of the initial fee is recognized as revenue and the remaining 75% is amortized over the life of the contract.

### *Advertising Costs*

Advertising costs are expensed as incurred and paid by Circle K Stores on behalf of the Company. Advertising expenses were \$15,002,452, \$14,407,276, and \$14,739,200 for 2025, 2024 and 2023, respectively.

## 2. Concentrations of Credit Risk

Financial instruments which potentially subject the Company to concentrations of credit risk consist of royalties receivable and notes receivable from franchisees. The Company performs on-going credit evaluations within the context of the industry in which it operates, and upon the execution of new agreements applies the expected credit loss criteria outlined in ASU No. 2016-13(Topic 326) “*Financial Instruments - Credit Losses*”.

## 3. Income Taxes

The provision for income taxes consisted of the following:

	Year Ended April 27, 2025	Year Ended April 28, 2024	Year Ended April 30, 2023
Current	\$ 7,211,656	\$ 6,934,084	\$ 8,380,793
Deferred	(604,281)	648,278	(833,362)
	<u>\$ 6,607,375</u>	<u>\$ 7,582,362</u>	<u>\$ 7,547,431</u>

The provision for income taxes differs from the federal statutory rate of 21% due to the provision for state income taxes as well as to adjustments to the deferred income tax asset and liability balances.

Deferred income taxes reflect the net tax effect of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. Major components of deferred income taxes were:

	April 27, 2025	April 28, 2024
<b>Deferred Income Tax Assets (Liabilities)</b>		
Royalty and other receivables	\$ 2,094,574	\$ 2,284,266
Accounts payable and accrued liabilities	16,371	92,380
Intangible assets	492,846	451,037
Deferred income tax assets	<u>2,603,791</u>	<u>2,827,683</u>
Property and equipment	(2,396,831)	(3,224,997)
Deferred income tax liabilities	<u>(2,396,831)</u>	<u>(3,224,997)</u>
	<u>\$ 206,960</u>	<u>\$ (397,314)</u>

## 4. Property and Equipment

Property and equipment consisted of the following:

	April 27, 2025	April 28, 2024
Leasehold improvements	\$ 40,713	\$ 22,241
Equipment	37,790,339	37,441,588
Signs	2,795,477	2,828,125
	<u>40,626,529</u>	<u>40,291,954</u>
Less: Accumulated depreciation	(28,339,040)	(25,829,412)
	<u>\$ 12,287,489</u>	<u>\$ 14,462,542</u>

Depreciation expense on property and equipment was \$4,016,804, \$4,887,614, and \$4,284,011 for 2025, 2024 and 2023, respectively.

All the Company's property and equipment were purchased by Circle K Stores or affiliates on behalf of the Company.

## 5. Intangible Assets

Intangible assets consisted of the following:

	<u>April 27, 2025</u>	<u>April 28, 2024</u>
Tradename	\$ 1,301,112	\$ 1,301,112
Software	323,628	323,628
Franchise contracts	54,487,980	54,487,980
	<u>56,112,720</u>	<u>56,112,720</u>
Less: Accumulated amortization	(45,472,014)	(41,712,766)
	<u>\$ 10,640,706</u>	<u>\$ 14,399,954</u>

Amortization expense on intangible assets was \$3,759,248, \$4,071,760 and \$4,165,513 for 2025, 2024 and 2023, respectively.

The tradename is not subject to amortization.

## 6. Other Assets

Other assets consisted of the following:

	<u>April 27, 2025</u>	<u>April 28, 2024</u>
Deferred construction allowances	\$ 19,349,466	\$ 18,064,122
Deferred incentive payments	3,750	10,000
	<u>\$ 19,353,216</u>	<u>\$ 18,074,122</u>

Deferred construction allowances are amortized on a straight-line basis over a period of up to ten years. Deferred incentive payments are amortized in accordance with the amortization schedules included in the corresponding incentive agreements. Amortization of deferred construction allowances was \$3,054,368, \$2,115,617, and \$736,359 for 2025, 2024 and 2023, respectively. The fair value of deferred construction allowances and deferred incentive payments approximates their carrying value.

## 7. Accounts Payable and Accrued Liabilities

Accounts payable and accrued liabilities consisted of the following:

	<u>April 27, 2025</u>	<u>April 28, 2024</u>
Accrued promotional expenses	\$ 14,178,935	\$ 15,892,650
Rebates payable to franchisees	8,920,309	11,602,740
Accounts payable and accrued expenses	4,476,064	3,253,377
Other	66,700	70,045
	<u>\$ 27,642,008</u>	<u>\$ 30,818,812</u>

## 8. Related Party Transactions

Couche-Tard and affiliates provided and paid for the following SG&A services for the Company for 2025, 2024 and 2023:

	Year Ended April 27, 2025	Year Ended April 28, 2024	Year Ended April 30, 2023
Services provided directly by Couche-Tard and affiliates			
Payroll	\$ 10,515,829	\$ 10,782,922	\$ 11,326,632
Employee relations	26,694	23,832	20,510
Travel	519,624	517,850	452,367
Supplies	163,619	168,735	223,560
Advertising	15,002,542	14,407,276	14,739,200
Other	646,530	779,056	437,144
	<u>26,874,838</u>	<u>26,679,671</u>	<u>27,199,413</u>
Services allocated by Couche-Tard and affiliates	91,957	85,353	63,441
Third-party costs paid by Couche-Tard and affiliates	856,643	624,996	851,610
Merchandising and support services paid directly to Couche-Tard and affiliates	9,472,519	9,175,185	5,485,735
	<u>\$ 37,295,957</u>	<u>\$ 36,565,205</u>	<u>\$ 33,600,199</u>

During 2017, the Company entered into an agreement with Couche-Tard Brands and Financing, sarl (“CTBF”), an affiliate owned by Couche-Tard, for certain merchandising and support services. The agreement is retroactively effective as of April 29, 2013. Merchandising and support services charged by CTBF was \$12,781 in 2025, \$15,036 in 2024, and a credit in 2023 of \$445. The credit in 2023, was the result of a true-up in the prior years estimated service costs. In 2020, the Company entered into an agreement with Circle K Procurement and Brands Limited (“CKPB”), an affiliate owned by Couche-Tard, for certain merchandising and support services. Merchandising and support services charged by CKPB accumulated to \$9,459,738, \$9,160,149, and \$5,486,180, respectively, for 2025, 2024 and 2023.

The Company is charged an annual trademark fee by Circle K Stores for the use of the “Circle K” tradename. The trademark expense is based on the percentage of franchise sites to total sites operating under the Circle K tradename. Trademark expenses represented \$391,871, \$408,796, and \$447,750, respectively for 2025, 2024 and 2023.

The receivable from parent company represents the net balance resulting from various transactions between the Company and affiliates owned by Couche-Tard and transactions conducted by those affiliates on behalf of the Company. These net transactions are not settled on a regular basis and are not interest-bearing.

The Company does not have an operating bank account and all cash activity is funded through Circle K Stores. The transactions are then recorded through intercompany transactions to correctly state the balances.

The Company purchases fuel to sell to franchisees from Circle K Stores. Circle K Stores purchases the fuel from various third-party suppliers. Only the exact fuel volume intended for sale to franchisees is purchased from Circle K Stores. Fuel purchased from Circle K Stores was \$121,521,993, \$108,201,918, and \$93,578,565, respectively for 2025, 2024, and 2023.

On December 12, 2003, the Company signed a note agreement with Circle K Stores providing for an advance of up to \$15,000,000. As of April 27, 2025, \$5,000,000 had been advanced to Circle K Stores pursuant to the note. Interest is paid on a semiannual basis on the last day of June and December at the federal short-term rate, as defined by the Internal Revenue Code of 1986, as amended. The resulting interest receivable is included in Receivable from parent company on the consolidated balance sheet. The note is payable on demand, however as the Company does not intend to call the payment in the next twelve month, the receivable is classified as non-current on the consolidated balance sheet. Interest earned on the note was \$243,656, \$240,308, and \$130,498 for 2025, 2024 and 2023, respectively.

**EXHIBIT C**

List of State Franchise Administrators and Agents for Service of Process

## List of State Agencies and Agents for Service of Process

### **CALIFORNIA**

California Commissioner of  
Business Oversight  
Department of Business  
Oversight  
Securities Regulation Division  
320 W. 4th Street  
Suite 750  
Los Angeles, CA 90013  
1-866-275-2677 (toll free)

### **ILLINOIS**

**Agent for Service of Process**  
Office of the Attorney General  
Franchise Division  
500 South Second Street  
Springfield, IL 62706

### **State Administrator**

Office of the Attorney General  
Franchise Division  
500 South Second Street  
Springfield, IL 62706

### **INDIANA**

**Agent for Service of Process**  
Indiana Secretary of State  
201 State House  
200 West Washington Street  
Indianapolis, IN 46204

### **State Administrator**

Securities Commissioner  
Indiana Securities Division  
302 West Washington Street,  
Room E 111  
Indianapolis, IN 46204

### **MARYLAND**

**Agent to Receive Process**  
Securities Commissioner  
Division of Securities  
200 St. Paul Place  
Baltimore, Maryland 21202-2020

### **State Authority**

Office of the Attorney General  
Securities Division  
200 St. Paul Place  
Baltimore, MD 21202

### **MICHIGAN**

Michigan Department of Attorney  
General  
Consumer Protection Division  
Antitrust and Franchise Unit  
G. Mennen Williams Building,  
First Floor  
525 West Ottawa Street  
Lansing, MI 48913

### **MINNESOTA**

Commissioner of Commerce  
Minnesota Department of  
Commerce  
85 7<sup>th</sup> Place East, Suite 280  
St. Paul, MN 55101

### **NEW YORK**

**Agent to Receive Process**  
Attn: New York Secretary of State  
New York Department of State  
One Commerce Plaza  
99 Washington Ave., 6<sup>th</sup> Floor  
Albany, NY 12231-0001

### **State Administrator**

New York State Department of  
Law  
Investor Protection Bureau  
28 Liberty Street, 21<sup>st</sup> Floor  
New York, NY 10005-1495

### **RHODE ISLAND**

Rhode Island Department of  
Business Regulation  
Division of Securities  
1511 Pontiac Avenue  
John O. Pastore Center  
Building 69-1  
Cranston, RI 02920

### **VIRGINIA**

**Agent for Service of Process**  
Clerk of the State Corporation  
Commission  
Tyler Building, First Floor  
1300 East Main Street  
Richmond, VA 23219

### **State Administrator**

State Corporation  
Commission  
Division of Securities and  
Retail Franchising  
Tyler Building, 9th Floor  
1300 East Main Street  
Richmond, VA 23219

### **WASHINGTON**

Department of Financial  
Institutions  
Securities Division  
150 Israel Road SW  
Tumwater, WA 98501

### **WISCONSIN**

Division of Securities  
Department of Financial  
Institutions  
201 W. Washington Avenue  
Suite 300  
Madison, WI 53703

**EXHIBIT D**

Table of Contents of Business Systems Manuals

## Online Store Guides

### Kangaroo Express Online Store Guides

Section 1 - Guide To Establishing A Kangaroo Express Franchise – 18 pages

Section 2 - Introduction – 4 pages

Section 3 - Human Resources – 14 pages

Section 4 - Managing A Kangaroo Express – 23 pages

Section 5 - Daily Store Procedures – 54 pages

Section 6 - Merchandising Store Planning – 26 pages

Section 7 – Advertising – 12 pages

Section 8 - Loss Prevention Guide – 31 pages

Section 9 - Accounting Reporting Record Keeping – 14 pages

Section 10 - Inventory Management – 22 pages

Section 11 - Motor Fuel Business Guide – 14 pages

Total number of pages: 232

**EXHIBIT E**

**KANGAROO EXPRESS® Acknowledgment Addendum**

**THIS KANGAROO EXPRESS ® ACKNOWLEDGEMENT ADDENDUM DOES NOT APPLY TO CANDIDATES LOCATED IN, OR FRANCHISED BUSINESSES TO BE LOCATED IN, ANY OF THE FOLLOWING FRANCHISE REGISTRATION STATES: CA, HI, IL, IN, MD, MI, MN, NY, ND, RI, SD, VA, WA, WI.**

The purpose of this Acknowledgment Addendum is to determine whether any statements or promises were made to you that we have not authorized or that may be untrue, inaccurate or misleading, and to be certain that you understand the limitations on claims that may be made by you by reason of the offer and sale of the franchise and operation of your business. Please review each of the following questions carefully and provide honest responses to each question.

The Franchise Agreement and all other agreements you are entering into with TMC Franchise Corporation or its affiliates are collectively referred to in this Questionnaire as “Agreement” or “Agreements.”

**Acknowledgments and Representations.**

1. Did you receive a copy of our Disclosure Document (and all exhibits and attachments) at least fourteen calendar days prior to signing the Agreements or paying TMC Franchise Corporation or its affiliates any consideration in connection with the franchise sale? Check one:  Yes  No. If no, please comment. \_\_\_\_\_  
\_\_\_\_\_
2. Did you receive a copy of each Agreement with all material blanks fully completed at least seven (7) calendar days prior to the date you executed the Agreement? Check one:  Yes  No. If no, please comment: \_\_\_\_\_  
\_\_\_\_\_
3. Have you studied and reviewed carefully our Disclosure Document and Agreements? Check one:  Yes  No. If no, please comment. \_\_\_\_\_  
\_\_\_\_\_
4. Did you understand all the information contained in both the Disclosure Document and Agreements? Check one:  Yes  No. If no, please comment. \_\_\_\_\_  
\_\_\_\_\_
5. Have you had the opportunity to discuss the benefits and risks of operating a Kangaroo Express Store, Motor Fuel Business and/or Branded Business with an attorney, accountant or other professional advisor? Check one:  Yes  No. If no, please comment: \_\_\_\_\_  
\_\_\_\_\_
6. Has any employee or other person speaking on behalf of TMC Franchise Corporation made any statement, promise, or agreement concerning the advertising, marketing, training, support service, or assistance that TMC Franchise Corporation will furnish to you that is contrary to, or different from, the information contained in the Franchise Disclosure Document or Agreements? Check one:  Yes  No. If yes, please comment. \_\_\_\_\_  
\_\_\_\_\_

7. Was any oral, written or visual claim or representation made to you which contradicted the disclosures in the Disclosure Document? Check one:  Yes  No. If yes, please state in detail the oral, written or visual claim or representation. \_\_\_\_\_
- 
8. Did any employee or other person speaking on behalf of TMC Franchise Corporation make any statement or promise regarding the costs involved in operating a Kangaroo Express Store, Motor Fuel Business and/or Branded Business that is not contained in the Disclosure Document or that is contrary to, or different from, the information contained in the Disclosure Document? Check one:  Yes  No. If yes, please comment. \_\_\_\_\_
- 
9. Except as stated in Item 19, did any employee or other person speaking on behalf of TMC Franchise Corporation make any oral, written or visual claim, statement, promise or representation to you that stated, suggested, predicted or projected sales, revenues, expenses, earnings, income or profit levels at any Kangaroo Express Store, Motor Fuel Business and/or Branded Business or the likelihood of success at your business? Check one:  Yes  No. If yes, please state in detail the oral, written or visual claim or representation. \_\_\_\_\_
- 
10. Did any employee or other person speaking on behalf of TMC Franchise Corporation make any representation as to your ability to procure any required license or permit that may be necessary in order to offer one or more of the services or products contemplated to be offered by the Circle K franchise? Check one:  Yes  No. If yes, please comment: \_\_\_\_\_
- 
11. Do you understand that (i) TMC Franchise Corporation makes no representations or warranties and expressly disclaims all liability with respect to any studies of the prospective Kangaroo Express Store, Motor Fuel Business and/or Branded Business location prepared by third parties at your request (including, without limitation any third party retail analytics studies), including any statements of potential volume, income, earnings, expenses, profits, or financial or business success of the Kangaroo Express Store that may be included in any such third-party studies, and (ii) any such third party studies are not taken into account by TMC Franchise Corporation in evaluating any proposed site locations? Check one:  Yes  No. If no, please comment. \_\_\_\_\_
- 
12. Do you understand that that the franchise granted is for the right to operate a Kangaroo Express Store, Motor Fuel Business and/or Branded Business at a particular location only and that we have the right to issue franchises or operate competing businesses from any other location, regardless of the proximity to your location? Check one:  Yes  No. If no, please comment. \_\_\_\_\_
- 
13. Do you understand that the approval of TMC Franchise Corporation of the site for a Kangaroo Express Store, Motor Fuel Business and/or Branded Business does not constitute an assurance, representation or warranty of any kind as to the successful operation or profitability of a Kangaroo Express Store, Motor Fuel Business and/or Branded Business operated at the site? Check one:  Yes  No. If no, please comment. \_\_\_\_\_
- 
14. Do you understand that the Agreements and Disclosure Document contain the entire agreement between you and us concerning the franchise for the Kangaroo Express Store, Motor Fuel Business

and/or Branded Business, meaning that any prior oral or written statements not set out in the Agreements or Disclosure Document will not be binding? Check one:  Yes  No. If no, please comment. \_\_\_\_\_

15. Do you understand that the success or failure of your Kangaroo Express Store, Motor Fuel Business and/or Branded Business will depend in large part upon your skills and experience, your business acumen, your location, the local market for products under the Kangaroo Express trademarks, interest rates, the economy, inflation, the number of employees you hire and their compensation, competition and other economic and business factors? Further, do you understand that the economic and business factors that exist at the time you open your Store may change? Check one:  Yes  No. If no, please comment: \_\_\_\_\_

16. Do you understand that any training, support, guidance or tools we provide to you as part of the franchise are for the purpose of protecting the Kangaroo Express brand and trademarks and to assist you in the operation of your Kangaroo Express Store, Motor Fuel Business and/or Branded Business, and not for the purpose of controlling or in any way intended to exercise or exert control over your decisions or day-to-day operations of your business, including your sole responsibility for the hiring, wages, training, supervision and termination of your employees and all other employment and employee related matters? Check One:  Yes  No. If no, please comment. \_\_\_\_\_

17. Do you understand that TMC Franchise Corporation may receive and keep consideration in the form of discounts, rebates, or marketing allowances on purchases that you make from designated suppliers and service providers? Check One:  Yes  No. If no, please comment. \_\_\_\_\_

18. Do you understand that you will be required to pay back to TMC the unamortized portion of any funding that you elected to receive if you sell your Kangaroo Express store to a third party or the Franchise Agreement is otherwise terminated early, and that such funding does not begin to amortize for three years? Check One:  Yes  No. If no, please comment. \_\_\_\_\_

19. Do you understand that you are required to carry, among other types of coverages, general commercial liability insurance, business automobile coverage, liquor liability coverage, and umbrella/excess coverage (all with prescribed minimum policy amounts) and that you will be required to submit a certificate evidencing compliant coverage before you are permitted to open your store? Check One:  Yes  No. If no, please comment. \_\_\_\_\_

20. Do you understand that you are required to keep your store open and operating 24 hours per day, 7 days per week (including all holidays) and that a failure to keep your store open for 24 hours per day (unless prohibited by local law) will be a violation of your Franchise Agreement and may result in an increase of your Royalty Fee rate by up to 2%? Check One:  Yes  No. If no, please comment: \_\_\_\_\_

21. Do you understand that TMC Franchise Corporation has made no representations to you regarding your ability to procure any required licenses or permits that may be necessary to the offering of one or more of the services contemplated to be offered by the Kangaroo Express Store?  
Check One: ( ) Yes ( ) No. If no, please comment: \_\_\_\_\_  
\_\_\_\_\_

YOU UNDERSTAND THAT YOUR ANSWERS ARE IMPORTANT TO US AND THAT WE WILL RELY ON THEM. BY SIGNING THIS ADDENDUM, YOU ARE REPRESENTING THAT YOU HAVE CONSIDERED EACH QUESTION CAREFULLY AND RESPONDED TRUTHFULLY TO THE ABOVE QUESTIONS. IF MORE SPACE IS NEEDED FOR ANY ANSWER, CONTINUE ON A SEPARATE SHEET AND ATTACH.

**NOTE: IF THE RECIPIENT IS A CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY OR OTHER ENTITY, EACH OF ITS OPERATING PARTNERS MUST EXECUTE THIS ACKNOWLEDGMENT.**

Signed: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_

\*All representations requiring prospective franchisees to assent to a release, estoppel or waiver of liability are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under any applicable law that prohibits releases, estoppels or waivers of liability under such law. Should one or more clauses of this Addendum be held void or unenforceable for any reason by any court of competent jurisdiction, such clause or clauses will be deemed to be separable in such jurisdiction and the remainder of this Addendum shall be valid and in full force and effect.

**EXHIBIT F**

Franchise Agreement



**KANGAROO EXPRESS® CONVENIENCE STORE  
FRANCHISE AGREEMENT**

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

**BY AND BETWEEN**

**TMC FRANCHISE CORPORATION  
1130 West Warner Road  
Tempe, Arizona 85284  
602-728-8000**

**AND**

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

**FRANCHISED LOCATION:**

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

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Exhibit F

Kangaroo Express 2025 Franchise Agreement

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## KANGAROO EXPRESS® FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT (the “**Agreement**”) is made and entered into as of the Effective Date (as set forth on the signature page hereto), by and between TMC Franchise Corporation, an Arizona corporation, 1130 West Warner Road, Tempe, Arizona 85284 (“**Franchisor**”), and \_\_\_\_\_ (“**Franchisee**”).

### RECITALS:

A. Franchisor has received from its affiliate the right to license to those individuals and entities who meet the qualifications established from time to time by Franchisor the right to use of the name “Kangaroo Express®” (and certain other Marks) and the Business System (each capitalized term as defined below) in connection with the operation of retail convenience stores under the name “Kangaroo Express®”.

B. Franchisee desires to acquire from Franchisor the right to use the Marks and the Business System to operate a Kangaroo Express Store (as defined below) at the location specified in this Agreement in conformity with the Business System and the uniformity requirements and quality standards as established from time to time by Franchisor, subject to the terms and conditions of this Agreement.

C. Franchisee understands that Franchisor would neither grant to Franchisee the right to use the Marks and the Business System nor provide Franchisee with any information or know-how about Kangaroo Express Stores and the Business System unless Franchisee has agreed to comply with the terms and conditions of this Agreement, including the obligation to pay the Initial Franchise Fee, the Royalty Fee, the Promotional Fee, and the other fees and payments specified herein.

In consideration of the covenants and promises contained herein, the sufficiency and receipt of which are hereby acknowledged by the parties, Franchisor and Franchisee hereby agree as follows:

### ARTICLE 1 DEFINITIONS

In addition to terms defined elsewhere in this Agreement, the capitalized terms used in this Agreement shall have the definitions set forth in Schedule 1 attached hereto.

### ARTICLE 2 GRANT OF LICENSE

2.1 Non-Exclusive License; Franchised Location; Store Opening. Subject to the terms and conditions herein, Franchisor hereby grants to Franchisee, and Franchisee hereby accepts, a non-exclusive license to establish and operate, during the Term, a Kangaroo Express Store, in conformity with the Business System, using the Marks (the “**License**”), at the location described in the Data Sheet attached hereto as Exhibit 1 (the “**Franchised Location**”). Franchisee agrees that the Store shall be constructed in accordance with the requirements of this Agreement and be ready to open within: (i) 1 year of the Effective Date, if the Store is a Conversion Store; or

(ii) 2 years of the Effective Date, if the Store is a New Store. A failure to open a Conversion Store within one year or a New Store within two years will entitle Franchisor to immediately terminate this Agreement without Franchisor incurring any liability for such termination. If this Agreement is so terminated, Franchisee must comply with all post-termination obligations set forth herein, including but not limited to the payment of Liquidated Damages.

2.2 Franchisor's Reservation of Rights. Except for the limited License granted to Franchisee hereunder, all other rights related to the Business System and the Marks not specifically granted to Franchisee hereunder are expressly reserved by Franchisor and its Affiliates. Franchisee acknowledges that the License granted hereby relates solely to the Franchised Location, affords Franchisee no rights regarding other licenses or locations, and does not give Franchisee any exclusive right to market or sell to any prospective customers or any exclusive right to any territory. Without limiting the generality of the foregoing, Franchisee acknowledges and agrees that Franchisor and its Affiliates have expressly reserved certain rights to the use of the Marks, the Business Systems, the Methods, and Confidential Information in connection with their own convenience store and retailing operations, in connection with licensing the same or similar products or services utilizing the same or similar Marks, or any other trademarks, service marks or names, in connection with the manufacture and sale of products at wholesale and at retail, and in connection with granting such rights to others pursuant to a franchise agreement, some or all of which activities may compete, directly or indirectly, with Franchisee's operation of the Store. Franchisee agrees that it will not in any way interfere with the business operations of Franchisor, its Affiliates or other franchisees. Franchisor has the right to make such changes to the Business System as it deems appropriate, including without limitation, changes to the building appearance and "image" requirements. Because complete and detailed uniformity under many varying conditions may not be possible or practical, Franchisor has the right to vary the standards for any license owner based upon the peculiarities of a particular site or circumstance, density of population, business potential, population or trade area, existing business practices, governmental requirements, local ordinances, or any other condition that Franchisor deems to be potentially significant to the successful operation of a Kangaroo Express Store. A grant by Franchisor of one or more variances to one or more other franchisees will not entitle Franchisee to the same or a different variation.

2.3 Use of Franchised Location; No Subfranchising. Franchisee agrees to operate the Store under the Business System using the Marks in strict compliance with the terms and conditions of this Agreement. Franchisee will operate the Store under the name "Kangaroo Express" (the "**Franchised Name**"), and will not change the Franchised Name or use any other marks or names in the Franchised Name, or in any other manner, except with Franchisor's prior written approval. Franchisee may not operate any other business at the Franchised Location without prior written approval from Franchisor. Franchisee may not use or attempt to use the Store or the Franchised Location for any purpose other than as permitted hereunder, or separately approved in writing by Franchisor, nor may Franchisee sublease, subfranchise, or transfer (other than in compliance with the terms of this Agreement) to any other person or entity the Store or the Franchised Location's leasehold interest or other rights relating in whole or in part to the Franchised Location.

2.4 Store Relocation. Franchisee may not change the Franchised Location without the prior written approval of Franchisor. Franchisee shall request such approval in writing which

sets forth the proposed new location and the reason(s) for the relocation request. Franchisor will use commercially reasonable efforts to approve or deny the relocation of the Store within sixty (60) days from the date the request is received. If Franchisor approves such relocation, Franchisee may relocate the Store to the approved new location, at Franchisee's sole cost and expense, and must pay to Franchisor a relocation fee equal to fifty percent (50%) of Franchisor's then-current initial franchise fee. In connection with Franchisor's approval of the relocation, Franchisor reserves the right to require Franchisee to execute Franchisor's then-current form of franchise agreement.

### ARTICLE 3 TERM; FRANCHISEE'S OPTION TO RENEW

3.1 Term. The term of this Agreement (the "**Term**") begins on the Effective Date and will expire on the tenth (10<sup>th</sup>) anniversary of the Open Date (the "**Expiration Date**"), unless earlier terminated in accordance with Article 13. Once established by the parties hereunder, the Open Date and the Expiration Date will be noted on the Data Sheet.

3.2 Conditions to Renew. Upon expiration of the Term, Franchisee will have an option to receive an offer of a new license for the Franchised Location for one renewal term equal to the initial term of the then-current form of franchise agreement of Franchisor; provided that: (1) Franchisor has not determined, before the end of the Term, in good faith and in the normal course of business either (i) that renewal of the franchise relationship is likely to be not economical for Franchisor, or (ii) to withdraw from the relevant geographic market in which the Store is located; and (2) Franchisee is in Good Standing and has agreed to and has complied with all of the following conditions:

(A) Franchisee has given Franchisor written notice of its desire to seek such a new license at least six (6) months prior to the expiration of the Term. (Franchisee's failure to timely provide such notice will be deemed a waiver of the option to renew.)

(B) Throughout the Term, Franchisee has complied in good faith with all material terms and conditions of this Agreement and has operated the Store in compliance with the material operating and quality standards and procedures of the Business System, and Franchisee is not in default under this Agreement or any other agreement with Franchisor or its Affiliates.

(C) Franchisor has not received numerous bona fide customer complaints concerning Franchisee's operation of the Store or any single bona fide complaint evidencing egregious or unconscionable conduct on part of the Franchisee or Franchisee's employees in dealing with customers.

(D) If requested by Franchisor, Franchisee will, at its own expense and within nine months of the expiration of the Term, upgrade and renovate the Franchised Location to conform to the then-current standards and image required of then-new franchisees, including, without limitation, upgrading of signs, equipment, furnishings, fixtures, and decor. If Franchisee fails to timely complete the required Store upgrades and renovations, the Royalty Fee rate under the Renewal Franchise Agreement (as defined below) will be increased by 1% until such time as

all required upgrades and renovations have been completed and the default is cured. In addition, Franchisor will have the right to exercise all other rights available to it under the Renewal Franchise Agreement and applicable law, including the right to terminate the Renewal Franchise Agreement.

(E) Franchisee and Guarantors will execute a general release (a “**Release**”) in a form satisfactory to Franchisor, of any and all claims each may have against Franchisor, its Affiliates and their officers, directors, shareholders, employees, consultants, and agents, in their corporate and individual capacities, including without limitation, all claims arising under this Agreement and under any federal, state, or local law, rule, or ordinance. If applicable law prohibits the giving of a general release as a condition for the offer of a new license, then this Section 3.2(E) will not be a condition for the offer of a new license, unless a release of some, but not all, claims is permitted, in which instance Franchisee and Franchisor will execute a release to the extent permitted by law.

(F) All monetary obligations owed by Franchisee to Franchisor or any Affiliates have been paid in full, or resolved to Franchisor’s satisfaction, prior to the end of the Term, and have been timely paid throughout the Term.

(G) Franchisee and Franchisee’s Store Manager will complete any new, refresher, or additional training and educational programs that Franchisor may require.

3.3 Renewal Obligations. If Franchisee meets the conditions in Section 3.2 above, then Franchisee will be required to execute Franchisor’s then-current form of franchise agreement (the “**Renewal Franchise Agreement**”) and pay Franchisor’s then-current renewal fee as set forth in Franchisor’s then-current franchise disclosure document. Franchisee will be required to pay the Royalty Fees and Promotional Fees at the rates specified in the Renewal Franchise Agreement plus any additional fees that may be required under such Renewal Franchise Agreement (even if such fees are not required hereunder). Franchisee acknowledges that the terms, conditions, and economics of the Renewal Franchise Agreement may vary in substance and form from the terms, conditions, and economics of this Agreement. Franchisee acknowledges and agrees that the option to renew is for one renewal term only, unless Franchisor and Franchisee specifically agree in writing otherwise. If this Agreement is signed in connection with a renewal, Sections 3.2 and 3.3 shall not apply unless the parties agree in writing otherwise.

The Renewal Franchise Agreement will take effect on the day following the expiration of this Agreement. Whether or not Franchisee accepts Construction/Equipment Funding from Franchisor, Franchisee shall use commercially reasonable efforts to upgrade the Franchised Location within nine months of expiration of this Franchise Agreement. The timing of completion of any such upgrades will in no way affect the commencement of the term of the Renewal Franchise Agreement, including but not limited to, the payment of applicable royalty or promotion fees.

3.4 Early Renewal. Franchisee may request a renewal, and Franchisor may approve, in Franchisor’s sole discretion, such a renewal request effective prior to the expiration of the Term; provided that upon such early renewal, Franchisee is in full compliance with this Agreement and in Good Standing. In such event, the term of the applicable Renewal Franchise

Agreement will consist of the remaining term of this Agreement plus the applicable renewal term. Franchisee would be required to sign a Release and a termination agreement terminating this Agreement at the time such Renewal Franchise Agreement would be signed by the parties.

#### ARTICLE 4 MARKS, BUSINESS SYSTEM, AND TECHNIQUES

4.1 Ownership. Franchisor represents and warrants that it has the right to license the Marks and the Business System to Franchisee hereunder. All information regarding the Marks and the Business System provided or revealed to Franchisee, together with the goodwill associated therewith, is, and will remain, solely and exclusively, the property of Franchisor (or its Affiliates). Any and all improvements made by Franchisee (or any of its employees, agents, contractors or representatives) relating to the Marks or the Business System will be solely and exclusively the property of Franchisor or its Affiliates, who have the right to register and otherwise protect their rights in all such improvements in accordance with any applicable law. Franchisee agrees not to assert any rights in or to the Marks or the Business System other than as specifically granted in this Agreement. Without limiting the foregoing, Franchisee acknowledges that all of the Techniques (including, without limitation, the Business Systems Manuals) are owned by Franchisor (or its Affiliates), whether or not published, registered, or copyrighted, or suitable for registration or copyright protection, have been revealed to Franchisee in trust and confidence and constitute trade secrets and/or proprietary property of Franchisor and its Affiliates. Franchisor will not be required to divulge any trade secrets to Franchisee except as may be expressly provided for herein. Franchisee shall take no action, or otherwise do anything or fail to do anything that will diminish, reduce, injure, dilute, or otherwise damage the value of the Marks or other Franchisor trademarks or identifications.

4.2 Use of the Marks. Franchisee agrees and acknowledges that it has a limited, non-exclusive right to use the Marks, pursuant to the terms of this Agreement, during the Term, solely in connection with the operation of the Store, including the advertising, marketing, promotion and sale of approved products and services at the Franchised Location, and such use shall fully comply with Franchisor's branding, image and appearance standards, policies and guidelines, as set forth in the Business System Manuals. Franchisee will not use any names, trademarks, trade names, service marks, logo types, trade styles, designs, signs, symbols, or slogans other than the Marks in connection with the Store. Any unauthorized use of the Marks or the Business System by Franchisee will constitute an infringement of Franchisor's (or its Affiliates') rights and will constitute a material default under this Agreement.

4.3 Franchisee's Business Name. Franchisee will not use any of the Marks or anything similar thereto, in or as part of its corporate, sole proprietorship, partnership or other legal entity name. Franchisee will at all times hold itself out to the public as an independent contractor operating the Store pursuant to a license from Franchisor. Whenever practical, Franchisee will clearly indicate on its business checks, stationery, purchase orders, business cards, invoices, receipts, advertising and promotional materials, and other written materials that Franchisee is a "Kangaroo® Express" franchisee. Franchisee will display signs at the Franchised Location that are clearly visible to the general public indicating that the Store is independently owned and operated as a franchised Kangaroo Express Store.

4.4 Substitution of Marks. Franchisor has the right to modify, or discontinue the use of, any Marks or to substitute different trade names, service marks, trademarks, logos, designs, and commercial symbols as the Marks used to identify the Store or in connection with the operation of the Store. Subject to Section 4.5, upon Franchisor's written instructions, Franchisee will, at its expense, and within the time period specified by Franchisor, make all modifications to the Marks displayed or otherwise used at the Franchised Location as required by Franchisor, and if so directed by Franchisor, Franchisee will cease using all discontinued Marks and commence using the "new" Marks.

4.5 Adverse Third-Party Claims to Marks. If Franchisor requires Franchisee to change the Marks in response to a third party's claim, or in response to a determination by a court of competent jurisdiction that a third party's rights to use the Marks are superior to Franchisor's (or its Affiliate's) rights, then upon written instructions from Franchisor, Franchisee will, at Franchisee's expense: (A) immediately make such changes and amendments to the Marks as may be required by Franchisor; and/or (B) at the Franchised Location and in connection with all advertising, marketing and promotion of the Store, immediately cease using the Marks at issue and will, as soon as reasonably practicable, commence using the new or modified trademarks, trade names, service marks, designs, trade symbols, logos, or commercial symbols designated by Franchisor in writing. In this limited circumstance only, Franchisor agrees to reimburse Franchisee for the cost of any new signage that Franchisor determines is necessary pursuant to this Section 4.4; provided Franchisee has cooperated with any action Franchisor undertakes with regard to the third party claim. Franchisee will not make any changes or amendments whatsoever to the Marks or the Business System unless directed so by Franchisor in writing.

4.6 Defense or Enforcement of Right to Marks. Franchisee will have no right to and will not defend or enforce any rights associated with the Marks or the Business System in any court or other proceedings for or against imitation, infringement, any claim of prior use, or for any other claim or allegation. Franchisee will give Franchisor prompt and timely written notice of any and all claims or complaints made against or associated with the Marks or the Business System, and Franchisee will, at its expense, cooperate in all respects with Franchisor and its Affiliates in any lawsuit or other proceedings involving the Marks or the Business System. Franchisor or its Affiliates have the right to determine whether they will commence any action or defend any litigation involving the Marks and/or the Business System, and the cost and expense of all litigation incurred by Franchisor or its Affiliates, including attorneys' fees, specifically relating to the Marks or the Business System will be paid by Franchisor or its Affiliates. Franchisee may, at its expense, retain an attorney of its own choosing to represent it individually in all litigation and court proceedings involving the Marks or the Business System, and will do so with respect to claims and matters involving only Franchisee (i.e., not involving Franchisor, its Affiliates, or their interests); however, Franchisor or its Affiliates and its legal counsel will have the absolute right to control and conduct any litigation or other proceeding involving the Marks and the Business System. Except as provided for herein, neither Franchisor nor its Affiliates will have any liability to Franchisee for any costs that Franchisee incurs in any such litigation involving the Marks or the Business System and Franchisee will pay for all costs, including attorneys' fees, that it may incur in any such litigation or proceeding arising as a result of matters referred to under this Article, unless Franchisee tenders the defense of any claim related to the Marks or the Business System to Franchisor in a timely manner as provided for herein.

4.7 Tender of Defense. If Franchisee is named as a defendant or party in any action involving the Marks or the Business System, and if Franchisee is named as a defendant or party solely because the plaintiff or claimant is alleging that Franchisee does not have the right to use the Marks or the Business System at the Franchised Location as permitted under this Agreement, then Franchisee will have the right to tender the defense of the action to Franchisor, and Franchisor will, at its expense, defend Franchisee in the action provided that Franchisee has tendered the action to Franchisor within seven (7) days after receiving service of the pleadings or the Summons and Complaint involving the action. Franchisor will indemnify and hold Franchisee harmless from any damages assessed against Franchisee in any actions resulting solely from Franchisee’s authorized use of the Marks and the Business System at the Franchised Location if Franchisee has timely tendered the defense of the actions to Franchisor consistent with the requirements of this Section 4.7.

ARTICLE 5  
INITIAL FRANCHISE FEE; ROYALTY FEE; AND PAYMENTS

5.1 Initial Franchise Fee. In consideration of the License granted herein, on the date Franchisee executes this Agreement, Franchisee will pay, in full, to Franchisor a fee in the amount set forth in the Data Sheet (the “**Initial Franchise Fee**”) via cashier’s check or money order. If Franchisee or its Affiliate has signed a Multiple Site Operator Agreement and has already paid the Initial Franchise Fee for this Store under such Multiple Site Operator Agreement, the Data Sheet shall reflect that. The Initial Franchise Fee is deemed fully earned by Franchisor upon receipt and is non-refundable except if Franchisee is unable to secure the necessary permits for the construction of the Store, despite Franchisee’s good faith efforts and due diligence, in which case the Initial Franchise Fee, reduced by all reasonable expenses incurred by Franchisor to date, will be refunded to Franchisee, provided that Franchisee is not a multi-site operator.

5.2 Royalty Fees. As set forth in Section 7.8, Franchisor may offer Equipment/Construction Funding if Franchisee qualifies for same. The rate of Franchisee’s monthly Royalty Fee that Franchisee is required to pay to Franchisor hereunder (the “**Royalty Fee**”) will be determined based on: (i) the amount of Equipment/Construction Funding Franchisee accepts (if any), (ii) whether the Store is located in a city, municipality, or state that prohibits the collection of royalty fees on the sale of alcoholic beverages, and (iii) whether Franchisor allows Franchisee to install gaming machines in the Store. Based on the level of Equipment/Construction Funding Franchisee accepts, the Royalty Fee rate will be calculated as follows:

<b>Amount of Equipment/Construction Funding that Franchisee accepts</b>	<b>Royalty Fee rate (as a percentage of Gross Sales) if no prohibition on collection of royalty fees on sale of alcoholic beverages</b>	<b>Royalty Fee rate (as a percentage of Gross Sales) if local or state law prohibits collection of royalty fees on sale of alcoholic beverages</b>
No funding	3.0%	3.5%
Level 1* funding	3.75%	4.25%
Level 2* funding	4.5%	5.0%
Level 3* funding	5.5%	6.0%

\*Each term as defined in Schedule A to the Equipment/Construction Funding Agreement.

The Royalty Fee rate may then be further increased by up to 1.0% if clause (iii) above applies. Once determined, the Royalty Fee that Franchisee will be required to pay during the Term will be noted on the Data Sheet. The monthly Royalty Fee payment that Franchisee will be required to pay hereunder will be the greater of: (a) \$1,000 or (b) the amount calculated as the applicable percentage of Gross Sales, as noted above and on the Data Sheet.

5.3 Additional Business. Franchisee must obtain Franchisor's written approval prior to operating, or permitting others to operate, a separate business (e.g., a food service business) (such business, as approved in writing by Franchisor, the "**Additional Business**") at the Store or at the Franchised Location. Franchisor may condition its approval on Franchisee meeting certain conditions and requirements from time to time established by Franchisor, including Franchisee agreeing to pay to Franchisor a royalty fee as a percentage of Franchisee's Gross Sales from the Additional Business as determined by Franchisor from time to time (the "**Co-Branded Royalty Fee**") and Franchisee and/or the Approved Third-Party Operator (as defined below) executing an addendum to this Agreement in the form provided by Franchisor. If a third party operator of an Additional Business has met the criteria from time to time established by Franchisor, and has been approved in writing by Franchisor ("**Approved Third-Party Operator**"), Franchisee agrees to pay Franchisor a monthly fee in an amount determined by Franchisor, in lieu of the Co-Branded Royalty Fee, for the right to operate through the Approved Third-Party Operator, such Additional Business from the Store or the Franchised Location (such flat fee, together with the Co-Branded Royalty Fee, the "**Co-Branded Fee**").

5.4 Optional Program Fees. Franchisee may, but is not required to, participate in certain optional programs that Franchisor may from time to time offer to Franchisee (each, an "**Optional Program**"). In connection with participating in an Optional Program, Franchisee will share a portion of the Optional Program revenue with Franchisor, and may be required to enter into a separate agreement with Franchisor and/or a third party vendor approved by Franchisor.

5.5 Method of Payment; Insufficient Funds Fee. Except as otherwise stated in this Agreement, all recurring payments required to be paid to Franchisor under this Agreement will be paid by electronic funds transfer via the Automated Clearing House ("**ACH**") or wire transfer (at Franchisor's election) to Franchisor or its Affiliates by the 25th day of each month for the preceding calendar month's business activity (or by such other due date as we may from time to time specify). If the payment due date is a Saturday, Sunday, or a legal holiday, the payment will be made on the immediately following business day. Prior to Open Date, Franchisee hereby agrees to make arrangements with its bank to allow Franchisor or its Affiliates to draw on Franchisee's bank account on a continuing basis by ACH or wire transfer for the amount of all fees and payments due Franchisor as provided herein and agrees to execute the Electronic Funds Transfer Authorization ("**EFT Authorization**") set forth in Exhibit 3. If Franchisee fails to timely make such arrangements or execute the EFT Authorization, Franchisee will be required to pay Franchisor a fine of \$50 per each day such noncompliance continues. If insufficient funds are available in Franchisee's account at the time payment is due hereunder, Franchisor may charge Franchisee Franchisor's then-current insufficient funds fee (currently \$50), or the maximum rate allowed by law, for each insufficient funds payment.

5.6 Interest on Unpaid Fees. If Franchisee fails to remit the fees required to be paid under this Agreement when due (including if insufficient funds are available in Franchisee's

account to fully pay the amount owed when due), the applicable payment will be considered late, Franchisee will be in default hereunder and any unpaid and past due fees will bear interest at the rate of one and one-half percent (1½%) per month or the legal rate allowed by applicable law, whichever is lower.

5.7 Franchisee's Absolute Obligation to Pay. Franchisee's obligation to pay Franchisor the fees required hereunder will be absolute and unconditional. Franchisee will not, for any reason, withhold payment of any Royalty Fees, Promotional Fees or any other fees or payments due Franchisor under this Agreement or any other agreement. Franchisee will not have the right to "offset" any liquidated or unliquidated amounts allegedly due to Franchisee from Franchisor against the Royalty Fees, Promotional Fees or any other payments due to Franchisor under this Agreement or any other agreement. Franchisee must pay timely and in full all fees due under this Agreement regardless of any claims that Franchisee may allege against Franchisor. Except as noted above with respect to the Initial Franchise Fee, no fees paid by Franchisee hereunder are refundable under any circumstances.

5.8 Franchisor's Set-Off Right. Franchisor, in its sole discretion, may withhold, set-off or recoup any amount it owes to Franchisee under this Agreement (including without limitation any discounts, rebates and allowances under Section 6.6) from or against any amount owed by Franchisee to Franchisor (including without limitation pursuant to any indemnification obligation of Franchisee) or held by Franchisor on Franchisee's behalf.

## ARTICLE 6 ADVERTISING AND PROMOTIONS

6.1 Promotional Fees. In addition to the fees payable under Article 5, Franchisee will pay to Franchisor a monthly promotional fee (the "**Promotional Fee**") consisting of the following components:

- (a) General Promotional Fee. Franchisee must pay Franchisor 0.25% of Franchisee's monthly Gross Sales (on Gross Sales up to \$125,000) to cover general costs associated with promoting Kangaroo Express Stores, including, but not limited to, the cost of image/customer service inspections, incentive programs for franchisees, administrative costs associated with the Promotional Fund, and work done by outside advertising agencies.
- (b) Local and Regional Promotional Fee. In addition, Franchisee must pay Franchisor up to 0.75% of Franchisee's monthly Gross Sales (on Gross Sales up to \$125,000) ("**Local and Regional Promotional Fee**") to cover the costs associated with local and regional promotions of, and equipment upgrades for, Kangaroo Express Stores located in a particular area (the "**Designated Marketing Area**" or "**DMA**"). The exact rate of the Local and Regional Promotional Fee may vary based on the particular DMA in which the Store is located. All franchisees in a given DMA will pay the same Local and Regional Promotional Fee rate. At Franchisor's option, if there are surplus Local and Regional Promotional Fees in any given year, Franchisor may elect to direct such surplus to be used to fund local store marketing programs ("**LSM**"), which

will give Franchisee the ability to use a portion of such funds to implement Franchisor-approved Store-level marketing and promotional programs. Franchisee acknowledges that LSM funds may not be available to Franchisee in every (or any) year during the Term.

- (c) National Promotional Fee. The parties acknowledge that no national promotional fee is in effect as of the Effective Date; however, during the Term, Franchisor may require payment of such a fee. In such an event, Franchisor will provide Franchisee at least 60 days' advance written notice, upon which time Franchisee will be required to pay Franchisor up to 0.25% of Franchisee's monthly Gross Sales (on Gross Sales up to \$125,000) to cover national promotional costs associated with promoting Kangaroo Express Stores.

Franchisor has the final decision-making authority over all matters relating to the Promotional Fees collected. The Promotional Fees will be used by Franchisor for payment of costs of category development and to establish and develop marketing, sales promotions, image, customer service, franchisee incentive and advertising programs designed to promote and enhance the Marks and the Business System and to increase sales, to cover Franchisor's costs incurred in the administration of the Promotional Fees, and for any taxes incurred on the Promotional Fees. Franchisor's marketing department is responsible for category development, as well as the development of the promotional programs, which includes the production, research, and administration of advertising, marketing calendars, production of television, radio, newspaper, direct mail, and point of purchase advertising, grand opening activities for new Kangaroo Express Store openings and all collateral materials. Upon written request, Franchisor will provide Franchisee with an annual unaudited statement showing the financial status of any fund created by Franchisor with respect to the Promotional Fees, and the manner in which the Promotional Fees were spent by Franchisor during Franchisor's previous fiscal year; provided, however, that Franchisor will not be required to provide any such annual statement to Franchisee earlier than ninety (90) days after the end of Franchisor's fiscal year. Franchisor is not obligated to spend Promotional Fees in any particular market or geographic area or in proportion to the payments made by franchisees in a market. Franchisor does not guaranty that Franchisee's Store will benefit directly or pro rata from the Promotional Fees, and allocations from the Promotional Fees may benefit other franchise Stores or Franchisor's Affiliate's company-owned Stores disproportionately to Franchisee's Store. Further, Franchisor is not obligated to spend all of the Promotional Fees collected in any fiscal year. If Franchisor's costs for a fiscal year for the advertising and promotions described above exceed or fall short of the Promotional Fees collected for a fiscal year, Franchisor may, at its option, carry the excess or shortfall over to the next fiscal year. The monthly Promotional Fees are payable by Franchisee hereunder in the same manner and at the same time as Royalty Fees as set forth in Article 5. Franchisor will have no fiduciary duty to Franchisee with respect to the collection or expenditure of the Promotional Fees, and any advertising fund created by Franchisor will not be a trust or escrow account held for the benefit or account of Franchisee.

6.2 Grand Opening. Unless exempted by Franchisor, Franchisee will conduct a grand opening advertising and promotional campaign in connection with the opening of the Store no earlier than thirty (30) days but within one hundred eighty (180) days of the date that Franchisee begins conducting business at the Store hereunder. Franchisor will reasonably assist Franchisee with developing and carrying out such grand opening campaign and will furnish Franchisee with

a grand opening materials package. All grand opening activities and related publicity and promotional materials must receive Franchisor's prior written approval. All publicity and promotional costs including the full cost of any price reductions and other customer inducements incurred in such grand opening advertising campaign will be at the sole expense of Franchisee, which expense will be in addition to Franchisee's obligation to pay the Promotional Fees as set forth above; provided, however, that Franchisor will reimburse Franchisee (from the Local and Regional Promotional Fees) any pre-approved expenditures in the amount of \$.50 for each \$1.00 Franchisee spends, up to a maximum reimbursement of \$2,000.

6.3 Advertising and Customer Goodwill Programs. Franchisor may, from time to time, initiate sales and marketing programs intended to promote and enhance the business of all Kangaroo Express Stores, and Franchisee will participate fully therein according to the terms, standards and requirements of the programs as from time to time established by Franchisor, unless Franchisee's participation is otherwise excused in writing by Franchisor. Such programs may include, by way of illustration and not of limitation, gift certificates, coupons, catalog and other direct mail, telemarketing, interchange programs, combination selling programs, or advertising in the yellow pages with other franchisees. The initiation of any such program will not obligate Franchisor to continue the program for any specific time period and Franchisor may modify or discontinue any such program at any time. Franchisee agrees that it may be required to purchase, at its own cost, equipment, supplies and materials and/or license software as part of its participation in these programs, and Franchisee may be required to complete training related to such programs. Upon termination of Franchisee's participation in any program, Franchisee must return to Franchisor any materials related to the program previously provided to Franchisee. In addition, Franchisor may, from time to time, develop advertisements or promotions for the use in radio or television media. Franchisor may make such advertisements or promotions available to Franchisee upon Franchisee's request; provided, that Franchisee will be solely responsible to place the advertisement or promotion and pay for media costs and the costs of voice-over, footage or other costs to identify the location of the Store.

6.4 Franchisee's Advertising. All advertising, regardless of the form of media used for advertising, including electronic media, social media, press releases, and the internet, done by Franchisee will be subject to Franchisor's prior written approval with respect to form and content, to be obtained in the following manner: copy of the proposed advertising or press release (specifying the anticipated publication date and the medium) will be submitted to Franchisor at least thirty (30) days prior to the anticipated publication date. Franchisor will have thirty (30) days after receiving such copy to approve or disapprove it. A disapproved copy may be re-submitted with corrections, and Franchisor will have ten (10) additional business days to approve or disapprove any such re-submitted copy. Franchisor's failure to respond within the designated period will be deemed an approval; provided, however, that Franchisor's approval of specified advertising (affirmatively or by failure to object) will not preclude Franchisor from subsequently disapproving the same or similar copy. Franchisee's use of any unauthorized signs, notices, advertising, or publications shall be a material breach hereunder giving Franchisor grounds for terminating this Agreement. Without waiving its right to declare Franchisee in breach of this Agreement, Franchisor may enter the Franchised Location and unilaterally seize or remove any unauthorized advertising materials from such Store.

6.5 Advertising Council and Local Marketing Groups. Franchisor reserves the right to form an advertising council composed of an elected group of franchisees, and, if such a council is formed and Franchisee is elected to the council, Franchisee agrees to abide by all rules and regulations promulgated by such council, and to regularly participate in the periodic meetings of such council. In addition, Franchisor reserves the right, from time to time, to establish or designate advertising cooperative associations and/or local marketing groups comprised of franchisees in a specific geographic territory (collectively, “**LMG**”), which LMGs would conduct and administer advertising and promotions in the applicable geographic region. If such LMG is formed in the geographic region in which the Store is located, Franchisee agrees to participate in such LMG. All advertising and promotions conducted by the LMG must be pre-approved in writing by Franchisor. All Kangaroo Express Stores owned by Franchisor or its Affiliates within such geographic area will also join such LMG on the same terms and conditions as Franchisee.

6.6 Advertising Programs and Vendor Promotions.

- (a) By executing this Agreement, Franchisee assigns to Franchisor its right to receive marketing, advertising, promotional, volume, retail display, and placement discounts, rebates and allowances offered by any manufacturers, distributors, or suppliers of products and services to the Store, excluding standard counter pack allowances offered by tobacco companies and excluding volume discounts reflected on the invoice by any manufacturer or supplier. For avoidance of doubt, Franchisee acknowledges that access to such manufacturers, distributors and suppliers is not guaranteed, and it is possible that such third parties will be unable or unwilling to deliver products to Franchisee’s Store. Franchisor may, in its sole discretion, (i) keep these discounts, rebates and allowances, (ii) retain a portion of these discounts, rebates, and allowances to off-set the costs associated with administering any vendor discount/rebate programs, (iii) use these discounts, rebates and allowances to supplement the Promotional Fees, or (iv) distribute such discounts, rebates and allowances to franchisees in such amounts and using such allocation methods as Franchisor deems appropriate. In all instances Franchisee agrees to cooperate and participate fully in all advertising and promotional programs or ventures designated by Franchisor, unless otherwise agreed in writing by Franchisor. Franchisor may withhold or offset any amount of marketing allowances and rebates Franchisor previously allocated for distribution to Franchisee from or against any amount owed by Franchisee to Franchisor (including pursuant to any indemnification obligation of Franchisee).
- (b) If Franchisor agrees (in its sole discretion) to process any discounts, rebates or allowances on Franchisee’s behalf, the following terms shall apply: Franchisor will credit such discounts, rebates and allowances to Franchisee’s account, less an administrative fee retained by Franchisor (in an amount from time to time determined by Franchisor), after Franchisor receives payment from the applicable vendor. Franchisor will determine, in its sole discretion, which vendors it will process discounts, rebates or allowances for on behalf of its franchisees. Franchisee acknowledges that the time between the date of the

applicable purchase from the vendor and the date Franchisee receives the rebate can vary from 4 to 12 months or longer, depending on the vendor's processing time.

- (c) Franchisee acknowledges that it does not have any ownership right or claim to any discounts, rebates, or allowances. Notwithstanding the foregoing, it is Franchisor's current policy to handle discounts, rebates, and allowances in the following manner, and such policy is subject to change at any time in Franchisor's sole discretion, without notice to Franchisee: upon expiration of this Agreement, Franchisor will continue to credit Franchisee's account for all applicable vendor discounts, rebates and allowances received, less any amounts Franchisee owes to Franchisor, for a period of 6 months after the expiration of this Agreement; following a Transfer of Franchisee's rights hereunder in accordance with Article 15 of this Agreement, Franchisor will continue to credit all vendor discounts, rebates and allowances Franchisor receives through the end of the month in which the transfer occurred, less any amounts Franchisee owes to Franchisor, to Franchisee's account, irrespective of which party operated the Store when the discount, rebate or allowance was earned. Starting on the first day of the month subsequent to the transfer, all rebates Franchisor receives will begin to be credited to the new franchisee-transferee. For example, if a transfer takes place on June 15th, rebates Franchisor collects beginning July 1st would be credited to the transferee. If this Agreement is terminated for any reason other than expiration or a Transfer, Franchisor will cease crediting Franchisee's account with any vendor discounts, rebates, or allowances as of the effective date of such termination.

## ARTICLE 7

### FRANCHISEE'S LEASE; BUILDING DESIGN AND SPECIFICATIONS

7.1 Franchised Location; Franchisor's Approval of the Lease. Franchisor must approve any proposed site for the Franchised Location, which site must meet Franchisor's then-current site selection criteria. In addition, Franchisor must approve any lease or other agreement granting Franchisee the right to occupy the Franchised Location as contemplated hereunder (the "**Lease**"), and such approval will not be unreasonably withheld if the landlord ("**Lessor**") agrees in the Lease as follows:

(A) The Lessor consents to Franchisee's use of the Marks and to the operation of a convenience store on the leased premises as required hereunder.

(B) Franchisee may not (i) sublease or assign all or any part of its rights under the Lease or (ii) extend or renew the Lease, in each case without Franchisor's prior written consent.

(C) The Lessor must agree to provide Franchisor with copies of all notices of default or similar communications given to Franchisee under the Lease.

(D) Franchisor has the right to enter the leased premises to make necessary modifications to protect the Marks and the Business System or to cure any default under this Agreement or the Lease.

(E) Upon default, expiration or termination of this Agreement, and upon notice to the Lessor, Franchisor (or its designee) may assume Franchisee's rights under the Lease, including the right to assign or sublease the Lease. In connection with such assumption, Franchisor will not be obligated to pay the Lessor any past-due rent, common area maintenance fees, or other charges attributable to a period longer than one month. Upon termination of Franchisee's rights under the Lease, the Lessor will give Franchisor thirty (30) days to exercise its assumption option.

Franchisee must furnish Franchisor with a copy of the signed Lease within 10 days after it is signed.

7.2 Lease Termination. If the Lease is terminated due to a default by Franchisee, such Lease termination will constitute a breach of this Agreement and all other related agreements by Franchisee. If Franchisor assumes control of the Franchised Location and the operation of the business conducted therein, the future operation of that business by Franchisor will not be as an agent of Franchisee, and Franchisor will not be required to account to Franchisee on account thereof.

7.3 Leasehold Improvements, Fixtures, and Equipment; Compliance with Franchisor's Standards. The Store building and premises must conform to the approved building plans and specifications, exterior and interior decorating designs, required equipment and color schemes for Kangaroo Express Stores. Franchisor will provide Franchisee with a typical Kangaroo Express Store floor plan layout and Franchisor's standard construction and equipment specifications, and Franchisee will take all actions necessary to bring the Store into compliance with the then-current layout and equipment specifications prior to the Open Date. If the Store is a Conversion Store, Franchisor, in its sole discretion, may require that the Store either close or remain open for business during the conversion process. Any general contractor or architect that will be making any improvements to the Franchised Location must be pre-approved by Franchisor. Franchisee will effect leasehold improvements and will install such fixtures and equipment at the Store as required by Franchisor's current specifications as set forth in the mandatory provisions of the Business Systems Manuals, and Franchisee will provide Franchisor with an architectural schedule prior to making any renovations to the Store. All plans and specifications must be approved by Franchisor prior to the commencement of construction. All architectural, engineering, construction, and design services for the Store will be at Franchisee's sole cost and responsibility, although Franchisor will consult with Franchisee regarding the design and layout of the Store upon the request of Franchisee. Failure to construct and furnish the Store in accordance with the plans and specifications may result in termination of this Agreement. Franchisee will not make any architectural, structural, design or decorating changes to the interior or exterior of the building or the premises, including any signs bearing the Marks, without Franchisor's prior written approval (unless such change is specifically required under applicable law). The furniture, fixtures, and equipment used in Franchisee's Store will be acquired from approved suppliers, installed and located in accordance with the floor plans and specifications approved by Franchisor for the Store, and will conform to the quality standards and uniformity requirements established from time to time by Franchisor. Franchisor will not be liable for any claims of loss, damage, or expenses

arising from the design or plan of the Store by reason of its approval of plans and specifications or of changes thereto, including, but not limited to, environmental claims, suitability of site, design or plan thereof, and Franchisee will indemnify Franchisor for any such liability should any such claim arise.

7.4 Changes in Plans and Specifications; Inspections. Franchisor must pre-approve in writing any and all changes to the Store plans or specifications. Franchisor may make periodic inspections of the site and may conduct a final inspection of the Store and the Franchised Location and may require corrections and modifications as it deems necessary to bring the same into compliance with the plans and specifications previously approved by Franchisor. If Franchisee fails to correct any unauthorized variance within thirty (30) days of receipt of notice of such default, Franchisor will be entitled to immediately terminate this Agreement. Franchisee will reimburse Franchisor for all expenses incurred in connection with any changes to plans or specifications and any inspections to verify corrections of any defaults.

7.5 Remodeling. Franchisee will make the reasonable capital expenditures necessary to remodel, modernize, redecorate, and renovate the Franchised Location and Franchisee's Store, and to replace and modernize the furniture, fixtures, supplies, and equipment so that the Franchised Location and the Store will reflect the then-current image intended to be portrayed by Franchisor (collectively, such efforts, "**Remodeling**"). All Remodeling must be done in accordance with the standards and specifications prescribed by Franchisor and any applicable laws, ordinances, and regulations. Franchisee will commence Remodeling within three (3) months from the date Franchisee receives written notice from Franchisor specifying the required Remodeling, and will diligently complete such Remodeling within a reasonable time thereafter. Franchisee will not be required to conduct any extensive Remodeling more than once every five (5) years during the Term (each such five year period, the "**Remodel Period**"); provided, however, that (i) if Franchisor determines in good faith that an item or items of furniture, fixtures, or equipment (such as countertops, displays, and fascia) have become so worn in the ordinary course of business prior to the expiration of the applicable Remodel Period and repairs cannot be reasonably made so as to conform the Franchised Location with Franchisor's then-current image standards, such item(s) shall be replaced by Franchisee upon Franchisor's request prior to the expiration of the Remodel Period; or (ii) at such time as Franchisor revises the Kangaroo Express Store general floor plan layout, Franchisee agrees to reconfigure the Store's floor plan layout to bring the floor plan into conformance with Franchisor's then-current specifications within three (3) months.

7.6 Maintenance and Repair. As between Franchisee and Franchisor, Store maintenance and repair will be the sole responsibility of Franchisee. Franchisee will at all times maintain the interior and exterior of the Store and all fixtures, furnishings, signs, and equipment located at the Store and surrounding area used in connection with such business in the highest degree of cleanliness, orderliness, safety, and sanitation and in good repair as set forth in the mandatory provisions of the Business Systems Manuals. Franchisee will make such additions, alterations, repairs, and replacements as necessary to conform to Franchisor's requirements. All replacements of furniture, fixtures, and equipment must conform to the quality standards for Kangaroo Express Stores, any applicable laws, ordinances, and regulations, and must be approved by Franchisor in writing.

7.7 Signs. Franchisee will display at the Franchised Location signs, advertising, slogans, and symbols as Franchisor may prescribe from time to time, subject to any Lease and local zoning restrictions. Franchisee will pay for permitting and exterior signage at the Franchised Location and will be responsible for the installation and maintenance of all signs. Any signage may not be used except as permitted hereunder and may not be altered or removed by Franchisee except with Franchisor's prior written consent or upon termination of this Agreement.

7.8 Equipment/Construction and Other Funding. Franchisor may offer to Franchisee funding for acquisition of certain Store equipment and/or construction of the Store ("**Equipment/Construction Funding**") if Franchisee qualifies for same. If Franchisee accepts the Equipment/Construction Funding, Franchisee must sign the Equipment/Construction Funding Agreement attached hereto as Exhibit 4 (the "**Equipment/Construction Funding Agreement**") and the Personal Guaranty (attached hereto as Exhibit 5). Franchisor will use the Equipment/Construction Funding funds, on Franchisee's behalf, to off-set the acquisition cost of Store equipment and the construction cost of the Store, and pay related invoices on Franchisee's behalf. The Equipment/Construction Funding will be amortized over the Term. Schedule A to the Equipment/Construction Funding Agreement sets forth the options available to Franchisee with respect to Equipment/Construction Funding. The amount of Equipment/Construction Funding, if any, that Franchisee is approved to receive will be noted on the Data Sheet. If, subsequent to the parties' execution of the Equipment/Construction Funding Agreement but before the store is deemed open as a Kangaroo Express Store hereunder, the merchandise sales levels at the store drop below the levels that Franchisor used to set the Equipment/Construction Funding amount, Franchisor reserves the right to reduce the Equipment/Construction Funding amount accordingly.

In addition to the Equipment/Construction Funding, Franchisee may qualify for an additional amount up to \$10,000 in funding from Franchisor if it qualifies for and maintains in the Store a qualifying third-party or proprietary food service offering that Franchisor pre-approves in writing and that complies with the third-party license or other agreement pursuant to which Franchisee receives the right to operate such offering (the "**Qualifying Food Offering**"). Whether or not Franchisor officially approves such funding by signing a funding agreement, such funding will not be provided if: i) Franchisee is not operating the Store in full compliance with the terms and conditions of the Franchise Agreement, or ii) the Qualifying Food Offering is not fully operational at the Store within one year of the date Franchisor officially approves providing such funding to Franchisee, or, if the Store is a conversion store, within one year of the Open Date. If such funding is accepted by Franchisee, the amount will be noted on the Data Sheet and Franchisee may be required to enter into a separate funding agreement with Franchisor (in the form provided by Franchisor). If, for any reason, the Qualifying Food Offering is removed from the Store during the Term, Franchisee will be required to repay the funding amount, less the amortized portion for each month that the Qualifying Food Offering was in full operation in the Store.

## ARTICLE 8

### QUALITY CONTROL, UNIFORMITY, AND STANDARDS REQUIRED OF FRANCHISEE

Franchisee acknowledges and agrees that Franchisor, its Affiliates and predecessors have expended large sums of money to popularize the Marks and the Business System so that the same represents very valuable goodwill distinctive of Franchisor, its Affiliates and their respective business reputations. Franchisee further acknowledges and agrees that Franchisor will from time

to time develop, establish, modify, implement, and enforce uniform standards of quality and service regarding the business operations of the Store. Accordingly, to ensure that all franchisees will maintain the uniformity requirements and quality standards for the foods, products, merchandise, and services associated with Franchisor, Kangaroo Express Stores, the Marks and the Business System, Franchisee agrees to maintain the uniformity and quality standards established by Franchisor for all foods, products, merchandise, and services associated with the Marks and the Business System, and agrees to follow Franchisor's standards to assure that all Kangaroo Express Stores will be uniform in nature and will provide quality foods, products, merchandise, and services to the public. Any required standards exist to protect Franchisor's interests in the Business System and the Marks and not for the purpose of establishing any control or duty to take control over those matters that are reserved to Franchisee. The required standards generally will be set forth in the Business Systems Manuals or other written materials. The Business Systems Manuals also will include guidelines or recommendations in addition to required standards. In some instances, the required standards will include recommendations or guidelines to meet the required standards. Franchisee may follow the recommendations or guidelines or some other suitable alternative, provided that Franchisee meets and complies with the required standards. In other instances, no suitable alternative may exist. In order to protect Franchisor's interests in the Business System and Marks, Franchisor reserves the right to determine if Franchisee is meeting a required standard and whether an alternative is suitable to any recommendations or guidelines.

8.1 Authorized Services and Products. Franchisee will diligently and continuously offer for sale only those products, merchandise, and services (including product mix) as specified by Franchisor from time to time or as specified in the mandatory provisions of the Business Systems Manuals, which will generally consist of those products and services offered by Franchisor and its Affiliates at their Kangaroo Express Stores. Franchisee may not sell or offer for sale any other products, merchandise, or services at its Franchised Location unless specifically authorized in writing by Franchisor or as set forth in the mandatory provisions of the Business Systems Manuals. Without the prior written consent of Franchisor, Franchisee may not (i) sell any products, merchandise, or services under the Marks or purchased through Franchisor's or Franchisor's affiliate's negotiated purchasing arrangements with suppliers at any location other than the Franchised Location or (ii) use, at any location other than the Franchised Location, any equipment purchased through Franchisor's or its affiliate's negotiated purchasing arrangements with suppliers. Franchisor will not be liable for any claim on the part of Franchisee in the event of loss or interruption in the supply of any or all such products or merchandise.

Franchisee acknowledges and agrees that certain approved supplies may only be available from one source, and Franchisor or Franchisor's Affiliate may be that source. Franchisee agrees to pay the then-current price in effect for all products, supplies, and services that Franchisee purchases from Franchisor or Franchisor's Affiliate. All inventory, products, services, materials and other items and supplies used in the operation or construction of the Store that have not been approved by Franchisor must conform to the specifications and standards Franchisor establishes from time to time. **ALTHOUGH APPROVED OR DESIGNATED BY FRANCHISOR, FRANCHISOR AND ITS AFFILIATES MAKE NO WARRANTY AND EXPRESSLY DISCLAIM ALL WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE, WITH RESPECT TO SERVICES, PRODUCTS, EQUIPMENT (INCLUDING, WITHOUT LIMITATION, ANY REQUIRED**

COMPUTER SYSTEMS), SUPPLIES, FIXTURES, FURNISHINGS OR OTHER APPROVED ITEMS. IN ADDITION, FRANCHISOR DISCLAIMS ANY LIABILITY ARISING OUT OF OR IN CONNECTION WITH THE SERVICES RENDERED OR PRODUCTS FURNISHED BY ANY SUPPLIER APPROVED OR DESIGNATED BY FRANCHISOR. FRANCHISOR'S APPROVAL OR CONSENT TO ANY SERVICES, GOODS, SUPPLIERS, OR ANY OTHER INDIVIDUAL, ENTITY OR ANY ITEM SHALL NOT CREATE ANY LIABILITY TO FRANCHISOR.

Franchisee must obtain Franchisor's prior written consent to offer motor fuel for sale from the premises where the Store is located. Franchisor's execution of this Agreement shall be deemed as such written consent solely for the brand of fuel offered by Franchisee at the time of the execution of this Agreement. Franchisee may not subsequently offer a different brand or unbranded motor fuel for sale without obtaining Franchisor's separate prior written consent. If the Franchised Location offers fuel for sale to the public, the fuel pumps and related equipment must remain clean, functional and in good condition and repair at all times.

8.2 Purchases. To preserve the uniformity of the Business System and the goods sold under the Marks, Franchisor may from time to time require that Franchisee purchase from Franchisor, or its Affiliates, or from a sole source vendor or service provider, certain proprietary items, including, but not limited to, food products, merchandise, accounting and software programs used in the operation of the Store; provided, that Franchisee will not be required to purchase from Franchisor, its Affiliates, any sole source vendor or service provider, any items not generally used or offered for sale by Franchisor or its Affiliates in their Kangaroo Express Stores.

8.3 Inventory of Products. Franchisee will maintain at all times sufficient minimum inventories of products and merchandise in the Store as set forth in the mandatory provisions of the Business Systems Manuals or as otherwise specified by Franchisor. If the Store is purchased from Franchisor, then Franchisee will pay to Franchisor an amount equal to the value of the entire inventory in the Store as of the Transfer Date. The inventory will be calculated using the retail inventory accounting method then in use by Franchisor. Franchisee will not be required to purchase damaged or unsaleable merchandise from Franchisor, but may do so by mutual agreement. As soon as practicable, Franchisor will provide Franchisee with an estimate of the value of the inventory expected to be in the Store as of the Transfer Date, and Franchisee will pay such amount on the date Franchisee receives the estimate, or on such other date that is on or prior to the Transfer Date as Franchisee and Franchisor may mutually agree upon. On the Transfer Date, the parties will then confirm the actual value of the inventory as of the Transfer Date, and within 30 days of the Transfer Date, if the amount paid by Franchisee for the estimated inventory is greater than the actual value of inventory confirmed on the Transfer Date, Franchisee will receive a refund of such difference, and if the amount paid by Franchisee for the estimated inventory is less than the actual value on the Transfer Date, Franchisee will make a corresponding additional payment to Franchisor.

8.4 Operational Requirements. Franchisee will operate the Store (including any Additional Business) in strict conformity with such uniform methods, standards, and specifications as Franchisor may from time to time prescribe (including without limitation, such methods, standards, and specifications set forth in the mandatory provisions of the Business Systems

Manuals) to ensure that the highest degree of quality and service is uniformly maintained. During the Term, Franchisee agrees to:

(A) use the Franchised Location solely for the operation of the Store and to refrain from using or permitting the use of the Franchised Location for any other purpose or activity without the prior written consent of Franchisor; and

(B) keep the Store open for business and in normal operation (doors open and fully illuminated) twenty-four (24) hours a day, seven (7) days a week (including all holidays), unless otherwise agreed to in writing by Franchisor, or unless prohibited by local laws or ordinances. The utilization of a pass-through window or bullet-resistant glass does not constitute being open for business in normal operation and requires Franchisor's prior written approval to install at the Store. If Franchisee operates the Store for less than twenty-four (24) hours any day during a month in a locality where applicable laws do not prohibit operating twenty-four (24) hours a day, or if Franchisee operates the Store for twenty-four (24) hours a day, seven (7) days a week, but utilizes a pass-through window or bullet-resistant glass surrounding the sales counter for any such time, in either case such operation will be deemed a default hereunder and in addition to any other remedies available to Franchisor hereunder or under applicable law, Franchisor may, in its sole discretion, increase Franchisee's monthly Royalty Fee rate for the Store by up to one percent (1%) for so long as such default is continuing. If the Store is closed for 24 consecutive hours or more without Franchisor's prior written approval, the Franchisee's average daily Gross Sales for the thirty (30) days prior to the Store closing will be used as Franchisee's daily Gross Sales for each day the Store is closed in order to calculate the Royalty Fees and Promotional Fees due for such days; and

(C) comply with the procedures and systems instituted by Franchisor both now and in the future, including, without limitation, those relating to sales, good business practices, advertising, and other obligations and restrictions set forth herein; and

(D) maintain sufficient supplies of (as Franchisor may prescribe in the mandatory provisions of the Business Systems Manuals or otherwise in writing), and use at all times, only such approved merchandise, equipment, materials, advertising methods, formats, supplies, and fuel (if applicable) as conform with Franchisor's standards and specifications; and

(E) secure and maintain in full force and effect in Franchisee's name all required licenses, permits, and certificates relating to and necessary for the operation of the Store, including, but not limited to, registration of names, fictitious names, tax permits, and lottery, alcohol (including but not limited to beer, wine, and liquor, if applicable) and tobacco licenses, if required and to deliver copies of any of the foregoing to Franchisor within five (5) days of Franchisor's request. If Franchisee has its alcohol, tobacco, or lottery license suspended, Franchisor may use Franchisee's average daily Gross Sales for the thirty (30) days prior to the suspension as Franchisee's daily Gross Sales for each day the license is suspended in order to calculate the applicable Royalty Fees and Promotional Fees due, in addition to any other rights and remedies Franchisor may have available hereunder and under the law; and

(F) notify Franchisor in writing within five (5) days of each of the following events: (i) the threat of, or the actual commencement of, any action, suit, or proceeding, (ii) the

issuance of any order, writ, injunction, award, notice, or decree of any court, agency, or other governmental entity, or (iii) any other incident occurring at the Store (including any instance of physical violence), which, in any of the above instances, may adversely affect the operation, financial condition, or goodwill of Franchisee, Franchisor, or the Business System; and

(G) handle all customer complaints and requests for adjustments promptly and consistent with any procedure required in the mandatory provisions of the Operations Manual(s), and always in a manner that will not detract from the name and goodwill enjoyed by Franchisor; and

(H) maintain a competent, qualified, conscientious staff capable of effectively communicating with customers, vendors, emergency medical personnel, fire fighters, police officers, and others, and employ such minimum number of employees as are necessary to service the anticipated volume of business at the Store. Franchisee will be solely responsible for the terms of employment, compensation, and proper training of all of its employees; and

(I) render appropriate, prompt, efficient, courteous service at the Franchised Location to Franchisee's customers and conduct the Store in a good workmanlike manner and in a fair and ethical manner; and

(J) accept and honor debit cards, credit cards, and gift cards and maintain relationships with such credit and debit card issuers or sponsors, check verification services, financial center services, and electronic funds transfer systems as Franchisor may designate or provide from time to time so that Franchisee may accept customers' credit cards, debit cards, gift cards, and other methods of payment. Franchisee agrees that all sales at the Franchised Location made using credit cards, credit identifications, fleet cards, debit cards, gift cards, pre-paid cards or other similar transaction authorization cards will be made pursuant to a point of sale ("POS") system for processing such cards as designated by Franchisor. Franchisor reserves the right to add or remove debit or credit card payment systems, relationships, or services, and other methods of payment at any time. In addition, if the Franchised Location does not offer fuel for sale, Franchisee must sign the Credit Network Agreement, attached hereto as Exhibit 6, pursuant to which Franchisee agrees to utilize the point of sale equipment and back office system designated by Franchisor to process all credit and debit card transactions at the Store through Franchisor's card processing network and pay the fees specified thereunder; and

(K) maintain adequate security on the Franchised Location to ensure the safety of customers and employees, and not permit illegal activities to take place in the Store or on the premises of the Franchised Location; and

(L) timely pay all utility bills and other obligations and liabilities affecting the Store or the Franchised Location; and

(M) timely pay all vendors, suppliers, and providers of inventory to ensure that the required levels of inventory are maintained at the Store; and

(N) apply to participate in the Supplemental Nutrition Assistance Program (SNAP), or other comparable program designated by Franchisor, and if approved in such program, accept SNAP benefits as a form of payment; and

(O) comply with all youth access laws prohibiting the sale of tobacco and alcohol to minors and ensure that no minor is allowed to purchase tobacco or alcohol on the premises; and

(P) refrain from engaging in conduct which would tend to discredit, dishonor, reflect adversely upon or in any manner injure the reputation of Franchisor, the Kangaroo Express brand, and/or the Marks; and

(Q) maintain a functioning automated teller machine (ATM) at the Franchised Location unless this requirement is waived by Franchisor;

(R) not install any gaming machines at the Store unless specifically pre-approved in writing by Franchisor and subject to compliance with applicable laws; and

(S) comply with all other requirements which may be prescribed herein.

8.5 Suppliers. Franchisee will purchase all merchandise, supplies, equipment, and materials required for the operation of the Store from suppliers approved by Franchisor who demonstrate, to the satisfaction of Franchisor, the ability to meet Franchisor's standards and specifications for such items; who possess adequate capacity and facilities to supply Franchisee's needs in the quantities, at the times, and with the reliability requisite to an efficient operation; and who have been pre-approved by Franchisor. Franchisor has the right to appoint a single approved primary source of supply for any merchandise items, and Franchisee may be required to purchase these items from this primary source under Franchisor's negotiated contract. Franchisee will not purchase any distressed or salvaged products for resale in the Store. Franchisor and/or its Affiliates may from time to time make available to Franchisee goods, products, and/or services for use in the Store on the sale of which Franchisor and/or its Affiliates may make a profit, and Franchisor and/or its Affiliates may from time to time receive consideration from suppliers, distributors, and/or manufacturers in consideration of services rendered or rights franchised to such persons. Franchisee acknowledges that Franchisor and/or its Affiliates will be entitled to such profits and/or consideration, as provided in Section 6.6.

8.6 Franchisee's Participation in Operations. Unless excused in writing by Franchisor, Franchisee will be actively involved in the day-to-day operations of the Store and will spend adequate management time required to maintain the standards required hereunder. If Franchisee is acquiring the rights to operate more than one Kangaroo Express Store, Franchisee will be actively involved in the supervision of management of all of the Kangaroo Express Stores owned by Franchisee and will spend adequate management time to ensure Franchisor's standards are maintained at all Stores.

8.7 Store Manager. If Franchisee will not be solely responsible for the direct management and daily activities of the Store, Franchisee will hire a Store Manager who will be solely responsible for the direct management and daily activities of the Store. The Store Manager must successfully complete Franchisor's training program prior to the opening of the Store. Franchisee agrees that no person who has been convicted of a felony, has otherwise committed any act involving fraud, or has engaged in any acts that could adversely affect or be detrimental to

the goodwill of the Marks and the Business System will be permitted to be employed as a Store Manager.

8.8 Uniforms. Franchisee will require its employees to wear the standard attire or uniforms approved by Franchisor and will comply with Franchisor's uniform requirements to promote the Kangaroo Express Store image and to protect and further the goodwill associated with the Marks and the Business System.

8.9 Payment of Expenses. Franchisee will be solely responsible for, and will timely pay (unless contested in good faith) all operating expenses, taxes, and levies in connection with the operation of the Store, including, without limitation, all costs related to obtaining, purchasing, leasing, maintaining, repairing, or replacing inventory, equipment, and other supplies needed to operate the Store and all salaries and wages and other benefits of employees.

8.10 Compliance with Laws. Franchisee will, at all times and at its expense, conduct and operate the Store (including any Additional Business) in strict compliance with all applicable federal, state, and local laws, ordinances, and regulations pertaining to the purchase, construction, remodeling and operation of the Store, including, without limitation, the Americans With Disabilities Act. Without limiting the foregoing, Franchisee acknowledges and agrees that, as between Franchisor and Franchisee, Franchisee is solely responsible for ensuring that all third party products and services used in connection with the construction and/or operation of the Store, whether or not approved or recommended by Franchisor, comply with all applicable laws and regulations. Additionally, Franchisee will, at its expense, be solely responsible for determining the licenses and permits required by law for the operation of the Store, for obtaining and qualifying for all construction or operation licenses and permits required by law, and for complying with all applicable federal, state, and local laws. As between Franchisor and Franchisee, Franchisee is solely responsible for the safety and well-being of its employees and the customers of Franchisee's Store. No employee of Franchisee will be deemed to be an employee of Franchisor for any purpose whatsoever, and nothing in any aspect of the Business System or the Marks in any way shifts any employee or employment related responsibility from Franchisee to Franchisor. Franchisee alone is responsible for hiring, firing, training, setting hours for and supervising all employees.

8.11 Payment of Taxes. Franchisee will be solely responsible for and will timely pay all federal, state, city, and local taxes and assessments including, but not limited to, individual and corporate income taxes, sales and use taxes, excise taxes, franchise taxes, gross receipts taxes, employee withholding taxes, FICA taxes, unemployment taxes, personal property taxes (including related to signage containing the Marks), real estate taxes, gasoline or motor fuel taxes, and all others taxes payable in connection with the operation of the Store and sale of merchandise and services. Without limiting the foregoing, Franchisee also will pay all state and local taxes, including, without limitation, taxes denominated as income or franchise taxes that may be imposed on Franchisor as a result of its receipt or accrual of the Initial Franchise Fee, Royalty Fees, Promotional Fees, or other fees due hereunder, whether assessed against Franchisee through withholding or other means or whether paid by Franchisor directly. In either case, Franchisee shall pay Franchisor (and to the appropriate governmental authority) such additional amounts as are necessary to provide Franchisor, after taking such taxes into account (including any additional taxes imposed on such additional amounts), with the same amounts that Franchisor would have

received or accrued hereunder had such withholding or other payment, whether by Franchisor or Franchisee, not been required.

8.12 Corporation, Partnership, or Limited Liability Company as Franchisee. If Franchisee is a corporation, then Franchisee will provide Franchisor with a list of all shareholders (showing the number of shares owned), officers and directors of the corporation, and will keep such information current at all times. All stock certificates of a corporate Franchisee will bear a legend as specified by Franchisor stating that transfer of the stock is restricted and subject to the terms of this Agreement. Upon Franchisor's request, each shareholder will execute an acknowledgment of restriction on the right to transfer stock of the corporation. If Franchisee is a partnership, limited liability company or other entity, then Franchisee will provide Franchisor with such ownership and governance information as Franchisor may reasonably require, including without limitation, the identity of the Principal Equity Holders in Franchisee, the percentage of ownership interest held by each Principal Equity Holder, and Franchisee's governing documents.

8.13 Guaranties. If Franchisee is a corporation, a limited partnership whose general partner is a corporation, or a limited liability company or other entity, each Principal Equity Holder of such corporation, limited partnership, limited liability company or other entity will: (i) approve this Agreement in writing; (ii) furnish any personal financial information reasonably requested by Franchisor; and (iii) execute Personal Guaranty attached to this Agreement as Exhibit 5 (the "**Guaranty**"), pursuant to which shall personally guarantee Franchisee's payments and performance obligations under this Agreement, any related agreement entered into between Franchisee and Franchisor, or any Affiliate, and any agreement executed upon renewal. Persons or entities that subsequently become Principal Equity Holders will execute the Guaranty within thirty (30) days after becoming a Principal Equity Holder.

8.14 Initial Training. Prior to commencing business operations at the Store, Franchisee or Franchisee's Operation Manager and Franchisee's Store Manager must successfully complete the initial training program provided by Franchisor (the "**Training Program**"). Franchisee or Franchisee's Operation Manager and the Store Manager must demonstrate competence in, and a thorough understanding of, each individual training segment before progressing to the next training segment. The classroom component of the Training Program will consist of two (2) weeks of training as determined by Franchisor, and will be conducted at Franchisor's training facilities, currently located in Tempe, Arizona, and at such other locations as specified by Franchisor, and will cover the basic operating procedures of the Business System as described in the mandatory provisions of the Business Systems Manuals and it may include technology training provided by a third-party technology provider. Additionally, Franchisee may be required to complete in-store training of up to two weeks at various Kangaroo Express Stores or similar convenience stores, based on Franchisor's evaluation of Franchisee's experience. Separately, Franchisee may be required to complete a regional one-week in-store training conducted by Franchisor ("**Regional In-Store Training**"). Franchisee must complete the Training Program no earlier than one hundred eighty (180) days prior to the opening of the Store. If the Training Program is completed more than one hundred eighty (180) days prior to the opening of the Store, Franchisee will need to be recertified by Franchisor before Franchisor will approve the opening of the Store.

If Franchisee is an existing convenience store franchisee of Franchisor, Franchisee may be required to attend a modified training program (the “**Modified Training Program**”), which will be shorter in duration than the Training Program. If required, Franchisee must complete the Modified Training Program no earlier than one hundred eighty (180) days prior to the opening of the Store. If the Modified Training Program is completed more than one hundred eighty (180) days prior to the opening of the Store, Franchisee will need to be recertified by Franchisor before Franchisor will approve the opening of the Store. Regardless of whether Franchisee attends the Training Program or Modified Training Program, Franchisee must complete all pre-classroom assignments and pass the same final exam required of all Kangaroo Express franchisees.

Any training provided by Franchisor to any of Franchisee’s employees will be limited to training or guiding the employees regarding the provision of approved products and services to customers in a manner that reflects the customer service standards of the Kangaroo Express System. Franchisee is, and will remain, the sole employer of its employees at all times, including during all training programs, and Franchisee is solely responsible for all employment decisions and actions related to its employees. Franchisee is solely responsible for ensuring that its employees receive adequate training.

8.15 Expenses. Franchisor will provide the Training Program to Franchisee or Franchisee’s Operation Manager and one (1) Store Manager at no cost to Franchisee, except that Franchisee will be required to pay Franchisor’s then-current fee for any third-party technology training and for the Regional In-Store Training. However, during the Training Program, Franchisee is responsible for all salaries, fringe benefits, payroll taxes, travel costs, lodging, food, and other personal expenses incurred by those attending the Training Program on Franchisee’s behalf.

8.16 Opening Assistance. After Franchisee and Franchisee’s Store Manager have successfully completed the Training Program, Franchisor will furnish a representative to the Store who will provide opening assistance and training to Franchisee and its employees as deemed necessary and appropriate by Franchisor, including, but not limited to, assistance with training employees, implementing the Business System, and evaluating initial business operations. Franchisee may not open the Store until Franchisor has given Franchisee written approval to open the Store.

8.17 Changes in Store Manager. If Franchisee hires a new or additional Store Manager, Franchisee is responsible to ensure that such new or additional Store Manager is adequately trained, which includes a complete review of the Business Systems Manuals and which may include successfully completing Franchisor’s Training Program, at Franchisee’s cost. Franchisee is also responsible for all travel, lodging, food, and other personal expenses incurred by all new or additional Store Managers attending the Training Program. All Franchisee Store Managers, including new or additional Store Managers, are required to be certified under the then current Kangaroo Express training requirements by Franchisor within the first 90 days of employment by Franchisee, regardless of the method that Franchisee selects to conduct training.

8.18 Additional Training. Franchisor has the right to hold refresher and/or additional training programs for Franchisee and/or its Store Manager at a location or locations selected by Franchisor. Attendance at such additional training shall be mandatory for Franchisee

so long as there is no tuition charged by Franchisor for such programs. Notwithstanding, Franchisee will be responsible for travel, lodging, food, and other personal expenses of those who attend on Franchisee's behalf.

8.19 Employee Training. Notwithstanding any other provision of this Agreement, Franchisee, at its sole cost and expense, will be responsible for training its employees.

8.20 Annual Convention. Franchisor reserves the right to arrange for an annual convention sponsored and conducted by Franchisor for the benefit of all franchisees. If Franchisee and/or Franchisee's Store Manager attends any such convention, such attendance will be at Franchisee's sole cost and expense.

## ARTICLE 9

### CONFIDENTIAL BUSINESS SYSTEMS MANUALS AND OTHER INFORMATION

9.1 Compliance with Business Systems Manuals. Franchisor will provide Franchisee with one copy of Franchisor's business systems manuals, including but not limited to the Store Guides and Operations and Reference Manuals (collectively, the "**Business Systems Manuals**"), either electronically, on the Kangaroo Express franchise extranet or in hard copy format, which must be available at all times at the Store, and, if in hard copy format, returned by Franchisee to Franchisor upon expiration or termination of this Agreement. To protect the reputation and goodwill of Franchisor, and to maintain uniform operating standards under the Business System, Franchisee will at all times during the Term conduct business at the Store in accordance with the mandatory provisions of the Business Systems Manuals.

9.2 Revisions to Business Systems Manuals. The Business Systems Manuals will, at all times during the Term and thereafter, remain solely and exclusively Franchisor's intellectual property owned exclusively by Franchisor. Franchisor reserves the right to revise, combine or eliminate any part of the Business Systems Manuals at any time during the Term and Franchisee agrees to operate the Store in accordance with all such revisions. Franchisee will at all times keep the Business Systems Manuals current and up-to-date, and in the event of any dispute regarding the Business Systems Manuals, the terms of the master copy of the Business Systems Manuals maintained by Franchisor will be controlling in all respects.

9.3 Confidentiality. Franchisee will use all reasonable means to keep all Confidential Information secret and confidential. Franchisee will not copy any Confidential Information, or any portion thereof, except as approved by Franchisor in writing, and will only use Confidential Information as permitted under this Agreement. Franchisee will not, during the Term or thereafter, communicate, divulge or use for the benefit of any other person or entity any Confidential Information, except that Franchisee may divulge Confidential Information to those (and only those) of its employees who must have access to it in order to operate the Store and who have agreed in writing to maintain confidentiality of such information as required hereunder.

9.4 Inspection Rights. Franchisor or its designee will have the right at all reasonable times to access the premises of the Franchised Location electronically or in person (without being guilty of trespassing) in order to inspect the premises and observe Franchisee's operations (including any Additional Business operations) to ensure Franchisee's full and faithful

compliance with the terms of this Agreement, the mandatory provisions of the Business Systems Manuals and applicable laws, including laws pertaining to environmental protection, and Franchisee agrees to fully cooperate with any such inspection. Franchisee may be required to bear the costs of such inspections if the inspections are conducted by a third-party designee of Franchisor. If Franchisee fails to fully cooperate with any such inspection, Franchisee will be in default hereunder, and in addition to curing the default, Franchisee will be required to pay Franchisor its then-current inspection noncompliance fee (currently \$1,000) and reimburse Franchisor for its costs associated with the failed inspection. Franchisor will have the absolute right to take photographs and videotapes of the interior and exterior of the Franchised Location and the Store premises (including, without limitation, employees, equipment, floors, ceilings, freezers, refrigerators, and other goods, fixtures, and equipment at the Store) at all reasonable times, to examine and photograph representative samples of foods, food items, goods and paper products sold or used at the Store, and to examine and evaluate the quality of the services provided by Franchisee to customers. Franchisor will have the right to use all photographs and videotapes of the Store for such purposes as Franchisor deems appropriate, including, but not limited to, use in training, advertising, marketing, promotional materials, public relations, and/or litigation. Franchisee will not be entitled to, and hereby expressly waives, any right that it may have to be compensated by Franchisor, its advertising agencies, or other Kangaroo Express franchisees for using photographs or videotapes in the manner described herein. Any evaluation or inspection Franchisor conducts is not intended to exercise, and does not constitute, control over Franchisee's day-to-day operation of Franchisee's Store or to assume any responsibility for Franchisee's obligations under this Agreement.

9.5 Key Individual. If Franchisee is a corporation or other entity, Franchisee shall designate a Key Individual to assist Franchisee in fulfilling its obligations under this Agreement. If Franchisee and Franchisor are also parties to a Motor Fuel Agreement governing the sale of fuel at the Franchised Location, the Key Individual identified in this Agreement shall be the same individual identified as the "**Key Individual**" under the Motor Fuel Agreement. The Key Individual must be identified in the signature page of this Agreement. The Key Individual must complete all required training. Any substitute Key Individual must be pre-approved in writing by Franchisor. **FRANCHISOR'S FRANCHISE RELATIONSHIP IS EXCLUSIVELY WITH FRANCHISEE. NOTHING IN THIS AGREEMENT MAY BE CONSTRUED AS CREATING ANY FRANCHISE OR FRANCHISE RELATIONSHIP WITH THE KEY INDIVIDUAL OR ANY OWNER OF A CORPORATE/ENTITY FRANCHISEE.**

9.6 Customer Data.

(a) Franchisor owns all Customer Information (as defined below) and may use the Customer Information as it deems appropriate (subject to applicable law), including disclosing it to vendors. Franchisee may only use Customer Information for the purpose of operating the Store to the extent permitted under this Agreement, including the Business Systems Manuals, during the term hereof and subject to such restrictions as Franchisor may from time to time impose and in compliance with all data privacy, security and other applicable laws. "**Customer Information**" means any contact information (including name, address, phone and fax numbers, and e-mail addresses), sales and payment history, and all other information about any customer, including any personal information that identifies, relates to, describes, is capable of being associated with, or could reasonably

be linked, directly or indirectly, with a particular individual or household. As used in this Agreement, the term “customer” refers to any person or entity (i) included on any marketing or customer lists that Franchisee develops or uses; (ii) who has purchased or purchases products or services at the Store; or (iii) whom Franchisee has solicited to purchase any products or services at the Store. Franchisor may use the Customer Information as it deems appropriate, including sharing it with its Affiliates.

(b) Without limiting the foregoing, Franchisee agrees to comply with applicable law in connection with its collection, storage, disclosure and its use and Franchisor’s use of such Customer Information, including complying with all laws and regulations relating to data protection, privacy and security, including data breach response requirements (“**Privacy Laws**”), as well as data privacy and security policies, procedures and other requirements Franchisor may periodically establish. Some law require Franchisee to obtain consent to collect, store, disclose, and use (collectively “process”) personal information. Franchisee is responsible for obtaining appropriate Customer consent to ensure Franchisee and Franchisor may process Customer Information as outlined in this Agreement. Franchisee must notify Franchisor immediately of any suspected data breach at or in connection with the Store. Franchisee must fully cooperate with Franchisor and its counsel in determining the most effective way to meet Franchisor’s standards and policies pertaining to Privacy Laws within the bounds of applicable law. Franchisee is responsible for any financial losses it incurs or remedial actions that it must take as a result of breach of security or unauthorized access to Customer Information in Franchisee’s control or possession.

(c) If any federal or state Privacy Law, including the California Consumer Privacy Act, as revised by the California Consumer Privacy Rights Act, Cal. Civ. Code § 1798.100, et seq. (collectively, “**CCPA**”) and any related regulations, applies to the operation of the Store, whenever and to the extent Franchisee operates as a “Service Provider” or “Contractor” under the CCPA, a data processor, or in a similar capacity under any federal or state Privacy Law, Franchisee represents and warrants that:

- (1) Except for the purpose of operating the Store and in accordance with the Business Systems Manuals, Franchisee will not retain, use, combine or disclose any Customer Information;
- (2) Franchisee will not sell, share, make available or otherwise disclose any Customer Information to any third party for valuable consideration or for the purpose of performing cross-context behavioral advertising;
- (3) Franchisee will not retain, use, or disclose Customer Information outside of the direct business relationship between Franchisee and Franchisor;
- (4) Franchisee will delete any Customer Information upon Franchisor’s request unless Franchisee can prove that such request is subject to an exception under applicable law;

(5) If Franchisee receives a Customer Information data request (e.g. a request to delete Customer Information) directly from a consumer (e.g., a California resident under the CCPA or CPRA, or a resident of another jurisdiction under other applicable Privacy Law), Franchisee shall inform Franchisor of that request within one business day and cooperate with Franchisor to ensure that the consumer receives an appropriate and timely acknowledgement and response;

(6) Franchisee will implement reasonable security procedures and practices appropriate to the Customer Information it collects, retains, uses or discloses, in order to protect it from unauthorized or illegal access, including following minimum requirements that may be set forth in the Business Systems Manuals;

(7) Franchisee will cooperate with Franchisor if Franchisor seeks to ensure that Franchisee has collected, retained, used, or disclosed Customer Information consistent with Privacy Laws and this Agreement, including but not limited to providing Franchisor with requested compliance documents, or allowing Franchisor to assess, audit, or test Franchisee's privacy and security controls at least annually;

(8) Franchisee will cooperate with Franchisor to stop or remediate any unauthorized use of Customer Information, including verifying that Franchisee no longer retains or processes any personal information that a consumer has asked Franchisee or Franchisor to delete under applicable Privacy Laws; and

(9) Franchisee will notify Franchisor immediately if Franchisee determines it cannot meet its obligations under Privacy Laws or this Agreement regarding its collection, retention, use, or disclosure of Customer Information.

(d) Franchisee certifies that it understands the restrictions in Paragraphs (1) – (9) of Section 9.6(c) and will comply with them. Franchisee also acknowledges and agrees that Franchisor may modify these restrictions from time to time by written notice to Franchisee, by issuing updates to Franchisor's standards and policies pertaining to Privacy Laws, including by adding other similar restrictions that may be required under other state or federal Privacy Laws, and Franchisee agrees to comply with the same. Franchisee also agrees to execute any addenda that Franchisor may determine are required to conform this Agreement to new or changed Privacy Laws.

To the extent that Franchisee engages a third party to collect, use, sell, share, store, disclose, analyze, delete, modify, or to otherwise perform any processing of Customer Information for the purpose of operating the Store (a "**Subprocessor**"), Franchisee will notify Franchisor of such engagement, which shall be governed by a written contract that includes the same restrictions as in Paragraphs (1) – (9) of section 9.6© and imposes reasonable confidentiality obligations and privacy and security controls on the Subprocessor.

9.7 Ethical Business Conduct. Franchisee agrees to adhere to good business practices, observing high standards of honesty, integrity, fair dealing and ethical business conduct

and good faith in all business dealings with customers, vendors, Franchisee's employees, Franchisor's corporate employees, and all other Circle K franchisees. Franchisee must not engage in deceptive, misleading or unethical practices or conduct that may have a negative impact on the reputation and goodwill associated with the Marks.

9.8 Crisis Situations. In the interest of protecting the Kangaroo Express brand, the Marks and the Business System, Franchisor has the sole and absolute right to determine a response, including what steps will be taken and what communications will be made, in instances of a Crisis, and Franchisee agrees to comply with and implement Franchisor's directions in response to a Crisis. "**Crisis**" means an event or development that negatively impacts the Kangaroo Express brand or the Business System in such a way that Franchisor determines may cause substantial harm or injury to the Marks, the Business System, or the reputation or image of the Kangaroo Express brand.

## ARTICLE 10 NON-COMPETITION

10.1 Covenant Not to Compete. Franchisee, on behalf of itself, its owners and Affiliates, and the Guarantors: (A) acknowledge that, pursuant to this Agreement, Franchisee's owners, principals or officers, and employees will receive specialized training from Franchisor and access to Franchisor's research and development, trade secrets and other Confidential Information pertaining to the Business System and the operation of Kangaroo Express Stores; and (B) agree that they will not, during the Term, on their own account or as an employee, agent, consultant, partner, manager, officer, director, owner or other representative of any other person, firm, partnership, corporation or other entity, own, operate, lease, franchise, conduct, engage in, advise, be connected with, have any interest in, or assist any person or entity engaged in, any other convenience retail business, or other related business that is in any way competitive with or similar to Kangaroo Express Stores, that is located within two (2) miles of any Kangaroo Express Store, except with the prior written consent of Franchisor.

## ARTICLE 11 ELECTRONIC POINT OF SALE SYSTEM; REPORTS, INSPECTIONS AND FINANCIAL STATEMENTS

11.1 EPOS System, Computer Systems and Internet Access. Franchisee shall purchase, install and maintain, at Franchisee's expense, an electronic point-of-sale cash register system, designated by Franchisor that meets standards and specifications established by Franchisor, as modified by Franchisor from time to time in response to business, operations and marketing conditions (the "**EPOS System**"). In addition to the EPOS System, Franchisee must purchase, install and maintain, at its expense, a back office computer system, including without limitation both hardware and software, or other existing or future communication or data storage systems, designated by Franchisor which meet standards and specifications established by Franchisor, as modified by Franchisor from time to time in response to business, operations and marketing conditions (collectively "**Computer Systems**"). Franchisee must purchase the EPOS System and any required Computer Systems from a source or sources designated by Franchisor. Franchisor has the right to designate a single source from whom Franchisee must purchase the EPOS System or any required Computer Systems, any components thereof or associated service.

Franchisee agrees that Franchisor will have full, including electronic, access to Franchisee's EPOS System and any required Computer Systems and the Store related data and information these systems collect and store at all times, in order for Franchisor to have the ability to monitor Franchisee's daily sales and business activity. Franchisee also agrees to purchase, install and maintain one or more additional DSL or high speed lines or other future required communication access device designated exclusively for the EPOS System and any required Computer Systems. Franchisor has the right to designate the specifications of any future required communication access device. Franchisee agrees to transmit to Franchisor item level sales data through the Computer Systems on a daily basis via the internet, or other future required communication access device, in accordance with Franchisor's then-current transmission protocol. In addition, Franchisee agrees that at all times Franchisee shall have high speed internet access through an established service provider, maintain an active e-mail account on the internet, and keep Franchisor informed of the e-mail address for such account. Franchisor's proprietary software will be licensed to Franchisee pursuant to the Electronic Point of Sale and Software Agreement attached hereto as Exhibit 2 (the "**Software Agreement**"), which Franchisee is required to execute, and Franchisee will be required to pay a monthly fee set forth in the Software Agreement. Franchisee will be solely responsible for performing all recordkeeping duties and all such records will be maintained according to the mandatory provisions of the Business Systems Manuals. Franchisor reserves the right to require Franchisee to enter into a separate agreement with a third party designated by Franchisor covering the use and maintenance of the systems required for the Store, including the EPOS System and/or any other Computer Systems or communication software Franchisor deems necessary to operate the Store or to collect data from the Store. Franchisee acknowledges and agrees that it will not be excused from performing any of its obligations hereunder as a result of the failure or malfunction of either the EPOS System or the Computer Systems. It is Franchisee's responsibility to make sure that it is in compliance with all laws that are applicable to the EPOS System or other technology used in the operation of Franchisee's Store, including all data protection, privacy or security laws as well as payment card industry (PCI) and Europay, MasterCard and Visa (EMV) compliance.

11.2 Participation in Website or Other Online Communication Systems. Franchisor has the right to require Franchisee, at Franchisee's expense, to participate in a "Kangaroo Express" extranet website or other online communication systems. Franchisor has the right to determine the content and use of any websites or other online communication systems and will establish the rules under which its franchisees (including Franchisee) will participate. Franchisor will retain all rights relating to any website or other online communication systems and may alter or terminate the site or systems. Franchisee's use of and general conduct on any website or other online communication systems, including on any social media accounts, specifically its use of the Marks, domain names or any advertising on any website, online communication systems or social media accounts, is subject to the provisions of this Agreement. Franchisee acknowledges that certain information obtained through its participation in the extranet website or other online communication systems may be considered confidential information, including access and identification codes. Franchisee's right to participate in any website or other online communication systems (including social media accounts) or otherwise use the Marks or the Business System on the internet terminates when this Agreement expires or terminates.

11.3 Franchisor Access to Data; Reports; Financial Statements. Franchisor will have ownership of, and direct and full access to, all Store-related data and related information by

such means as Franchisor may from time to time require, including without limitation, via third party vendors, direct access telephone, data transmission lines, or modem, and Franchisor may use same to the extent permitted by applicable law. Simultaneously with the payment of Royalty Fees hereunder, Franchisee will submit to Franchisor, electronically or otherwise in writing as required by Franchisor, Store sales reports that include an itemization by product/service category as required by Franchisor (e.g., merchandise sales, lottery sales, money order sales, etc.) for sales made during the previous month from the Store, which reports shall include calculation of Gross Sales and Royalty Fees, Co-Branded Fees and Promotional Fees, in such format and with such level of detail as required by Franchisor. In addition, Franchisee is required to provide Franchisor with Franchisee's monthly profit and loss statements in a format prescribed by Franchisor. Such profit and loss statements (which shall include both the relevant month and year-to-date periods) must be submitted to Franchisor within 45 days of each month-end. Additionally, Franchisee is required on a periodic basis to provide to Franchisor financial statements prepared in accordance with U.S. Generally Accepted Accounting Principles or in accordance with the federal income tax basis of accounting, including without limitation annual financial statements (including balance sheet, profit and loss statement and cash flows statement) within 90 days of the end of each calendar year. Franchisor reserves the right to require Franchisee to have such annual financial statements audited. All reporting requirements are more fully set forth in the mandatory provisions of the Business Systems Manuals.

11.4 Franchisor's Audit Rights. Within 48 hours after receiving notice from Franchisor, Franchisee will make all of its financial records, books, ledgers, work papers, accounts, bank statements, tax returns, sales tax returns, and other financial information pertaining to the Store (including any Additional Business), (collectively, "**Books and Records**") available to Franchisor at all reasonable times for review and audit by Franchisor or its designee, and Franchisee will fully cooperate with Franchisor in connection with the audit. Without limiting the foregoing, as part of the audit, Franchisor has the right to evaluate, remotely or at the Store premises, Franchisee's compliance with its obligations regarding Customer Information. The Books and Records for each fiscal year will be kept in a secure place by Franchisee and will be available for audit by Franchisor for at least five (5) years from the termination, expiration, or Transfer of this Agreement. If an audit by Franchisor determines that the actual Gross Sales were understated by Franchisee by more than two percent (2%), then Franchisee will immediately pay to Franchisor any identified deficiency in Royalty Fees, Promotional Fees, or other amounts owed to Franchisor hereunder (plus interest as provided in Section 5.6), and will reimburse Franchisor for all costs and expenses incurred by Franchisor in connection with the audit (including salaries of Franchisor's employees or designees, travel costs, room and board, and audit fees).

11.5 Tax Returns. Upon Franchisor's request, Franchisee will provide Franchisor with a true and complete copy of all federal, state, and local sales and income tax returns relating to the Store (including any Additional Business), and Franchisee hereby waives any privilege pertaining thereto.

11.6 Accounting Forms. Franchisee will, at its own expense, use such bookkeeping and recording forms, sales slips, invoices, purchase order forms, reprints, and other miscellaneous operating forms in the operation of the Store as Franchisor may require from time to time.

11.7 Delinquent Reports. If Franchisee fails to provide to Franchisor when due any sales, financial statement, or other reports that Franchisee is obligated to provide to Franchisor, and such failure continues for a period of ten (10) days past the due date, (a) Franchisee will pay to Franchisor a late fee with respect to each such report in the amount of Twenty-Five Dollars (\$25.00) per day beginning with the eleventh (11) day after the date due, and (b) Franchisor may, but is not obligated to, charge Franchisee for such month the Royalty Fees, Co-Branded Fees and Promotional Fees that were due for the most recent month for which the required reports and sales information were submitted. If Franchisee subsequently submits the missing report/sales information, Franchisor shall reconcile the amounts actually collected from Franchisee against amounts owed for the relevant time period and either issue a corresponding credit to Franchisee or charge Franchisee an additional amount. The imposition of late reporting fees will be in addition to, and not in lieu of, any other remedy available to Franchisor for failure to report.

## ARTICLE 12 SERVICES PROVIDED BY FRANCHISOR

12.1 Franchisor's Services. Consistent with Franchisor's uniformity requirements and quality standards, Franchisor or its authorized representative may, at its sole cost and expense:

(A) provide Franchisee with a written schedule of all furniture, fixtures, supplies and equipment necessary and required for the operation of the Store, and, upon Franchisee's request, provide Franchisee with recommendations regarding obtaining products, securing vendors, and establishing purchasing, selling, and pricing strategies (Franchisor may, from time to time, make suggestions to Franchisee with regard to pricing policies. Although Franchisee generally has the right to establish prices for the products and services it sells, Franchisor reserves the right to establish and enforce prices, both minimum and maximum, to the extent permitted by applicable law.);

(B) inspect the Store (including any Additional Business), from time to time as Franchisor determines, at any time during hours that the Store is required to be open for the purpose of determining whether the Store (and/or such Additional Business) is being operated in conformity with this Agreement and the mandatory provisions of the Business Systems Manuals. Franchisor also reserves the right to hire independent professional shoppers to provide an evaluation of the Store (and/or Additional Business) operations. Upon notice from Franchisor, Franchisee will immediately take such steps as may be necessary to correct deficiencies detected during any such inspections, including, without limitation, immediately desisting from the further use of any equipment, advertising materials, products, supplies, or methods and services that do not conform to Franchisor's then-current standards and specifications. If Franchisee fails to operate the Store (and/or Additional Business) in conformity with this Agreement and the mandatory provisions of the Business Systems Manuals and fails to promptly remedy any non-compliance after being advised of the same by Franchisor, Franchisor will have the right to terminate this Agreement (or Franchisee's right to operate the Additional Business, as applicable) without providing any further right to cure such non-compliance. In addition, Franchisee will reimburse Franchisor for any expenses incurred by Franchisor to fix, correct, or remedy any deficiencies found in Franchisee's operations;

(C) upon Franchisee's request, assist Franchisee in preparing or otherwise developing Franchisee's own advertising programs;

(D) render advisory services from time to time pertaining to the operation of the Store; and

(E) provide Franchisee with access to the Business Systems Manuals, either electronically, on the Kangaroo Express franchise extranet or in hard copy format, as determined by Franchisor.

12.2 Third-Party Management Firm. Franchisor will select a third-party management firm to assist Franchisee with the development and construction of the Store. The services provided by this third-party management firm will vary depending on the construction and equipment needed to construct or convert the Store to the Business Systems' standards and requirements. Franchisee will be responsible for all costs associated with the use of the management firm, a portion of which costs will be covered by the Funding, if applicable, as determined by Franchisor.

## ARTICLE 13 INSURANCE

13.1 General Liability. Franchisee will procure and maintain in full force and effect, at its sole cost and expense, Commercial General Liability coverage insuring Franchisee from and against any and all loss, liability, claim or expense of any kind whatsoever associated with the operation, condition, use, business or occupancy of the Store. The Commercial General Liability policy will cover bodily injury, personal injury, property damage, contractual liability, products liability, premises liability, advertising liability and completed operations. This coverage will include the surrounding premises or area, the parking area, and the sidewalks of the Franchised Location. Minimum limits for these coverages will be One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate.

13.2 Business Automobile. Franchisee will procure and maintain in full force and effect, at its sole cost and expense, comprehensive automobile liability coverage insuring Franchisee from and against any and all loss, liability, claim or expense resulting from the use, operation or maintenance of any automobile or motor vehicle owned, non-owned or leased by Franchisee or used by Franchisee or any of its employees or agents in connection with the Franchised Business. Minimum limits for these coverages will be One Million Dollars (\$1,000,000) for bodily injury and property damage, including personal injury, per occurrence.

13.3 Umbrella or Excess. Franchisee will procure and maintain in full force and effect, at its sole cost and expense, Umbrella or Excess Insurance of at least One Million Dollars (\$1,000,000).

13.4 Commercial Property. Franchisee will, where appropriate, also maintain "all risk", full replacement cost coverage for buildings (if applicable), machinery and equipment, including boiler coverage (if applicable), fixtures, furnishings, inventory, including spoilage and contamination, signs, and property of others in the care, custody, and control of Franchisee.

Business interruption insurance for a minimum of six (6) months and extra expense coverage must also be included.

13.5 Liquor Liability. If Franchisee sells any alcoholic beverages, Franchisee will procure and maintain in full force and effect, at its sole cost and expense, Liquor Liability Insurance Coverage insuring Franchisee from and against any and all loss, liability, claim or expense of any kind whatsoever associated with the sale or distribution of any alcoholic beverages. The minimum limit for this coverage will be at least One Million Dollars (\$1,000,000) per occurrence with an aggregate of Two Million Dollars (\$2,000,000).

13.6 Insurance Required By Law. Franchisee will, at its sole cost and expense, procure and pay for all other insurance required by state or federal law, including workers' compensation insurance (whether or not workers' compensation insurance is required by the state in which the Store is located) with Employers Liability limits of at least Five Hundred Thousand Dollars (\$500,000).

13.7 Other Insurance. Franchisee will, at its sole cost and expense, also procure and maintain all insurance required under the Lease and any mortgage, deed of trust, contract for deed or any other contract in connection with the Franchised Location or the Store. Without in any way limiting the obligation of Franchisee to indemnify Franchisor as specified herein or to provide insurance with respect to operations performed pursuant to this Agreement, as further specified above, if the Franchised Location also stores and sells motor fuel, Franchisee shall, at all times, comply with all Federal, State and local laws applicable to the ownership and operation of commercial underground storage tanks ("USTs"), including but not limited to requirements to maintain financial assurance for the USTs. The financial assurance obligation may be satisfied through participation in state administered UST funds, or where no such UST funds are applicable or available, then commercial UST insurance shall be maintained in accordance with applicable financial assurance requirements. If Franchisee elects to maintain financial assurance through another means (e.g., self-insurance or standby trust), Franchisee must provide evidence of same to Franchisor.

13.8 Minimum Requirements. Franchisee acknowledges that the foregoing are minimum requested insurance requirements, and Franchisor in no way suggests or represents itself as a professional insurance advisor.

13.9 Additional Insured. The insurance policies required above, except for Workers' Compensation and Employer's Liability Insurance, shall name Franchisor and its partners, members, subsidiaries, and other Affiliates, and their respective agents, assigns, employees, directors and officers as additional insureds.

Additional insured status shall include, without limitation, coverage for ongoing and completed operations. The additional insured endorsement form shall be ISO CG 20-26 or any other form that provides comparable coverage and is approved in writing by Franchisor. Additional insured coverage shall not be limited to vicarious liability and shall extend to (and there shall be no endorsement limiting coverage for) the negligent acts, errors or omissions of Franchisor or other additional insureds. Franchisee shall maintain such additional insured status for

Franchisor and the other additional insureds on its insurance policies continuously during the Term.

13.10 Certificate of Insurance. Franchisee shall provide to Franchisor or Franchisor's designee a certificate of insurance prior to the Open Date and throughout the Term (upon Franchisor's request and upon each renewal of an insurance policy) demonstrating compliance with the requirements of this Article 13. Franchisor's failure to demand delivery of a certificate shall not be a waiver by Franchisor of Franchisee's obligation to furnish either a complying certificate or the required insurance coverage.

13.11 Subcontractors and Approved Third-Party Operators. Franchisee shall ensure that all vendors hired to help Franchisee fulfill its obligations under this Agreement and any Approved Third-Party Operators have adequate insurance. Franchisee shall be responsible for the actions or inactions of all vendors and Approved Third-Party Operators. The term "**vendors**" shall mean and include any individual or entity hired by Franchisee to assist Franchisee to perform any of Franchisee's duties under this Agreement.

13.12 Waiver of Subrogation. The Workers' Compensation and Employer's Liability insurance policy shall include a waiver of subrogation in favor of Franchisor.

13.13 Cross Liability. All insurance policies required shall include a cross-liability and severability of interest clauses applicable to Franchisor, providing coverage for claims by one insured against another insured and coverage to one insured regardless of the actions of the other insureds.

13.14 Primary Coverage. All insurance policies shall include a clause expressly providing that such policies are primary insurance and not excess over or contributory with any other valid, existing or applicable insurance carried by Franchisor, its Affiliates, agents, employees, directors and officers.

13.15 Policy Cancellation. Franchisee's insurance shall provide for thirty (30) days' written notice to all named and additional insureds of any cancellation or material change to the insurance contracts.

13.16 Policy Rating. Franchisee shall obtain required insurance policies from insurers that are acceptable to Franchisor, which shall include only those insurers licensed (admitted) in the state or states within which this Agreement is to be performed, and with an A.M. Best Rating of A- VIII or better.

13.17 Financial Responsibility. Franchisee shall be responsible for all deductibles under the required policies of insurance. Franchisor may permit self-insurance by prior written approval. Franchisor shall have the exclusive right to accept or deny Franchisee's request to self-insure.

13.18 Obligations. The insurance required by this Agreement shall not limit or restrict Franchisee's defense and indemnity obligations to Franchisor. Conversely, the insurance requirements of this Agreement shall not be limited or restricted by any legal limitation on the obligations of Franchisee to indemnify Franchisor. Franchisee's obligation to obtain and maintain

the foregoing policies in the amounts specified shall not be limited in any way by reason of any insurance that may be maintained by Franchisor.

## ARTICLE 14 DEFAULT; TERMINATION RIGHTS

14.1 Franchisor's Immediate Termination Right Without Notice. This Agreement will automatically terminate, without notice, and without Franchisee being afforded an opportunity to cure, if: (a) Franchisee, any Guarantor, or any of their Affiliates makes an assignment for the benefit of creditors, files a voluntary petition in bankruptcy, is adjudicated bankrupt or insolvent, files or acquiesces in the filing of a petition seeking reorganization or arrangement under any federal or state bankruptcy or insolvency law, or consents or acquiesces in the appointment of a trustee or receiver for Franchisee, such Guarantor, Affiliate or the Store, (b) proceedings are commenced to have Franchisee or any such other person or entity adjudicated bankrupt or to seek a reorganization of any such person or entity under any state or federal bankruptcy or insolvency law and such proceedings are not dismissed within sixty (60) days, or (c) a trustee or receiver is appointed for Franchisee, or any such other person or entity, or the Store, without such person or entity's consent and the appointment is not vacated within sixty (60) days.

14.2 Franchisor's Immediate Termination Rights With Notice. Franchisee will be in a material breach of this Agreement, and Franchisor may, at its option, terminate this Agreement and all rights granted to Franchisee hereunder at any time during the Term without prejudice to Franchisor's enforcement of any other legal right or remedy, immediately upon giving written notice of such termination and the reason(s) therefor, and without providing Franchisee an opportunity to cure, effective immediately upon Franchisee's receipt of the notice of termination, upon the occurrence of any of the following events:

(A) Franchisee's Failure to Meet Initial Qualifications. If Franchisor determines that: (i) any financial, personal or other information provided by Franchisee to Franchisor is materially false, misleading, incomplete or inaccurate; or (ii) Franchisee lacks the requisite business experience or is otherwise determined to be incapable of properly managing the Store.

(B) Abandonment. Franchisee fails to keep the Franchised Location open for business during the hours set forth in Section 8.4(B) for a continuous period of three (3) or more consecutive days (or for any shorter period after which it is not unreasonable for Franchisor to conclude that Franchisee does not intend to continue the operation of the Franchised Location) unless the Franchised Location is closed by reason of an event beyond the control of Franchisee and not caused directly or indirectly by Franchisee's negligence, willful misconduct, or financial inability, or unless Franchisor has consented in writing to said closing.

(C) Misconduct. Franchisee makes any material misrepresentation in this Agreement or in any documents, interviews, or business discussions relating to Franchisee's acquisition of the Store, or Franchisee engages in conduct that reflects materially and unfavorably upon the reputation of the Business System.

(D) Multiple Defaults. Franchisee materially defaults under this Agreement or commits breaches under this Agreement on three (3) or more occasions in any eighteen (18) month

period, regardless of whether such defaults or breaches are cured, or if Franchisee fails to materially operate the Store in accordance with the mandatory provisions of the Business Systems Manuals and fails to promptly conform to the standards specified therein.

(E) Seizure. The Store, the Franchised Location, this Agreement, or any assets relating to the Store are seized, taken over, or foreclosed by a government official in the exercise of his duties, or by a creditor, lien holder, or lessor, provided a final judgment against Franchisee remains unsatisfied for thirty (30) days (unless a bond has been filed), or if a levy of execution or other judicial seizure is made on any such property and is not discharged within five (5) days.

(F) Criminal Acts. If Franchisee, any owner of Franchisee or any Affiliate of Franchisee is convicted of or pleads nolo contendere to a felony, any crime involving moral turpitude, or other misconduct relevant to the operation of the Store or injurious to the reputation of the Business System.

(G) Expiration or Termination of the Lease/Sublease. If the Lease (or any underlying lease related to the Franchised Location) is cancelled, expires or is terminated and not renewed.

(H) Violation of Law. Franchisee permits a violation of any law, ordinance, rule, or regulation of a governmental agency to continue for more than ten (10) days, in the absence of a good faith dispute over its application or legality and without promptly resorting to an appropriate administrative or judicial forum for relief therefrom.

(I) Misuse of Marks. Franchisee misuses or makes any unauthorized use of the Marks or any other identifying characteristic of the Business System, or otherwise materially impairs the goodwill associated therewith or Franchisor's rights therein.

(J) Understatement of Gross Sales; False Reports. Franchisee intentionally understates Gross Sales by two percent (2%) or more in any sales report or if Franchisee falsely reports information required to be reported to Franchisor.

(K) Unauthorized Transfer. Franchisee purports to transfer any rights or obligations arising under this Agreement to any third party without Franchisor's prior written consent and in compliance with the terms hereof, including, but not limited to, any unapproved transfer by operation of law.

(L) Construction/Opening. Franchisee fails to construct and open the Store in accordance with Section 2.1 and Article 7.

(M) Termination of Another Agreement with Franchisor or Its Affiliate. Another agreement between Franchisee (or its Affiliate) and Franchisor (or its Affiliate), whether or not such agreement is related to the Franchised Location, is terminated due to Franchisee's (or its Affiliate's) default under such agreement.

14.3 Other Conditions of Breach. In addition to the other rights of termination contained in this Agreement, Franchisee will be in material breach of this Agreement for any failure to comply substantially with any of the terms or conditions of this Agreement, or to carry

out the terms and conditions of this Agreement in good faith. Such material breaches will include, but are not limited to, the occurrence of any of the following events:

(A) Non-Payment of Fees. If Franchisee fails, refuses, or neglects to promptly pay when due any monies owing to Franchisor or any of its Affiliates, or if Franchisee fails to satisfy any third-party obligations with respect to the operation of the Store, Franchisee must remit such monies to Franchisor or satisfy such third-party obligations, as the case may be, within five (5) days after receiving notice from Franchisor of the same.

(B) Reports and Financial Statements. If Franchisee fails to submit any Store report or any financial statement required by Franchisor when due or upon a request therefor from Franchisor.

(C) Breach of Other Agreements. If Franchisee fails to comply with the terms of this Agreement or any other related agreement with Franchisor or any Affiliate for the Franchised Location, including without limitation, any financing agreements or the Software Agreement.

(D) Required Training. If Franchisee or Franchisee's Store Manager fails to successfully complete any required training programs to the satisfaction of Franchisor.

(E) Operations. If Franchisee fails to maintain or operate the Store in accordance with the specifications contained in the mandatory provisions of the Business Systems Manuals, or in a clean, orderly, and safe manner.

(F) Lapse of Insurance. Any required insurance coverage of the Store lapses for a period of more than five (5) days for any reason. In any such case, Franchisor shall have the right to obtain the types and amounts of insurance coverage specified in Article 13 hereof and charge the cost and expense for any such premiums to Franchisee's account.

(G) Failure to Obtain Permits or Licenses. Franchisee fails to obtain any necessary permits or licenses required for the operation of the Store, including but not limited to, the sale of liquor or tobacco, or such permits or licenses are suspended or canceled.

(H) Sale of Tobacco or Alcohol to Minors. The Store violates the youth access laws with respect to the sale of tobacco and/or alcohol to underage persons or Franchisee fails to notify Franchisor within five (5) days, in writing, of any notices of violation received from local, state, or federal authorities concerning the sale of tobacco and/or alcohol to minors.

(I) Operation of Additional Business without Approval. Franchisee opens and operates an Additional Business without Franchisor's prior approval in violation of Section 5.3.

14.4 Notice of Breach; Cure Period; Termination. Franchisor shall have the right to terminate this Agreement if Franchisee has failed to cure the alleged breach specified in Section 14.3 within the applicable cure period specifically provided for in Section 14.3, or within thirty (30) days (for breaches described in Section 14.3 where a cure period is not specified in Section 14.3), as applicable, after receipt of a written notice of default from Franchisor, subject to Section 14.5.

14.5 Extended Cure Period. If Franchisee breaches any provision of this Agreement which permits a cure period, but the default by its nature cannot reasonably be cured within the time allotted for cure, Franchisee will be entitled to such additional time to cure the alleged breach as Franchisor deems reasonable. Franchisee will not be entitled to an extension as provided in this Section 14.5 if the default or delay is caused, directly or indirectly, by Franchisee's financial inability, negligence or willful misconduct. In addition, if any law applicable to this Agreement requires additional notice or a longer notice period than specified herein, this Agreement will be deemed to be automatically amended to conform to the requirements of such law.

14.6 Cross-Default with Related Agreements. At Franchisor's election, any default by Franchisee under this Agreement may simultaneously constitute a default by Franchisee of each and every other related agreement with Franchisor or any Affiliate for the Franchised Location, including, but not limited to any financing agreements, motor fuel agreement, branding agreement and the Software Agreement, regardless of whether such other agreements may in fact be properly and fully performed by Franchisee. Further, at Franchisor's election, any default by Franchisee in any other agreement between Franchisee and Franchisor may simultaneously constitute a default by Franchisee under this Agreement notwithstanding that at such time Franchisee may be fully and promptly performing its obligations hereunder.

14.7 Rights and Obligations upon Expiration or Termination. Upon expiration or termination of this Agreement for any reason, Franchisee will:

(A) within five (5) days, pay all Royalty Fees, Promotional Fees, and any other amounts owed to Franchisor, suppliers, or vendors, including the outstanding principal amounts and accrued interest on any notes or evidences of indebtedness of Franchisee payable to Franchisor or any Affiliates. The payment to Franchisor of all amounts owing will be accelerated on all debt obligations which had been the subject of payment schedules even if payment was then being made promptly according to the agreed schedule. Franchisee hereby grants to Franchisor a lien and security interest against any and all personal property, equipment, and fixtures owned by Franchisee and used in connection with the Store as security for the payment of such obligations;

(B) immediately pay, as fair and reasonable liquidated damages ("**Liquidated Damages**"), an amount equal to (i) the lesser of (x) 48 or (y) the remaining number of months under the Term, *multiplied by* (ii) the average monthly Royalty Fee payments (calculated in accordance with Section 5.2) payable by Franchisee hereunder for the 12 months preceding the termination (during which time the Franchisee was in Good Standing under this Agreement), or for a shorter period commencing with the Effective Date of this Agreement if this Agreement is terminated in the first 12 months of the Term. If the Store has never been opened and therefore has no history of Royalty Fee payments, the Liquidated Damages will be calculated based on the average monthly Gross Sales of all Kangaroo Express franchisees located in the state where the Franchised Location is located for the 12 month period immediately preceding the termination. If there are no Kangaroo Express franchisees located in such state, the calculation will be based on the average monthly Gross Sales of all Kangaroo Express franchisees located in the United States. Notwithstanding the foregoing, in any and all cases, the average monthly Royalty Fee payment amount used in the Liquidated Damages calculation shall be no less than \$1,000 since that is the minimum required monthly Royalty Fee. Franchisor and Franchisee acknowledge and agree that the termination of this Agreement will result in Franchisor incurring damages based on lost

revenues from Royalty Fees and other amounts payable by Franchisee and the potential loss of goodwill if the Franchised Location is no longer a Kangaroo Express Store, and that it will be difficult to calculate with certainty the amount of damages Franchisor will incur. The provisions of this Section 14.7(B) do not apply if the Agreement expires at the end of its initial Term or is terminated due to (i) Franchisee's (or if Franchisee is an entity, Principal Equity Holder's) death; (ii) Franchisee's (or if Franchisee is an entity, Principal Equity Holder's) incapacity for at least 90 consecutive days, in either case which event results in Franchisee's (or if Franchisee is an entity, Principal Equity Holder's) inability to personally operate the Store; (iii) condemnation or other taking, in whole or in part, of the Franchised Location due to eminent domain; (iv) destruction of all or a substantial part of the Franchised Location through no fault of Franchisee; (v) Franchisee's failure to secure the necessary permits for the construction of the Store; or (vi) a determination made by Franchisor in good faith and in the normal course of business to withdraw from marketing in the geographical area in which the Store is located. Notwithstanding the foregoing, if a court determines that the payment under this Section 14.7(B) is unenforceable, then Franchisor may pursue all other available remedies, including consequential damages to the extent proved.

(C) immediately discontinue all use of the Marks and the Business System. Franchisee will cease displaying and using, and will return to Franchisor, all copies of the Business Systems Manuals, other Confidential Information, all signs, stationery, letterheads, forms, printed matter, electronically stored data, advertising, and other materials required to be returned in accordance with this Agreement, and will cease using the Marks and any name, logo, slogans, or symbols or other designations that may mislead or confuse the public or suggest association between Franchisee and Franchisor or the Business System, except only to the extent that the Marks appear as labels or identification of products, inventory or other Business Assets that are being purchased by Franchisor under Section 16.1. Franchisee will not thereafter operate, advertise, or do business under any name or in any manner in violation of this Section 14.7. Franchisee will promptly make reasonable modifications to the exterior and interior of the Franchised Location to eliminate Franchisee's former identification as a franchisee of Franchisor, including, but not limited to, removing all signs that contain the Marks; provided, however that Franchisor may waive (partially or entirely) this requirement if Franchisor is exercising its rights under Section 14.7(D). Subject to Section 14.7(D), if Franchisee fails to debrand the interior or exterior of the Franchised Location to Franchisor's satisfaction, Franchisor may hire a third party to complete the debrand of the Franchised Location and Franchisor will charge Franchisee for all costs associated with the debranding process. Franchisee will promptly execute and file an assignment of its fictitious business name and any other similar filings and take such additional actions as may be necessary to abandon use of any fictitious business name and any social media accounts containing or using any of the Marks. At Franchisor's request, Franchisee will assign to Franchisor or its nominee all telephone numbers and listings, including social media accounts, used in the operation of the Store. Franchisee will, immediately upon Franchisor's request so that Franchisor may protect its interest in the Marks and the Confidential Information, permit Franchisor or its designees to access the Franchised Location to remove the signage or materials containing the Marks and otherwise to secure Franchisee's compliance with this Section 14.7. If Franchisee continues to operate a convenience store business at the Franchised Location after the termination of this Agreement, Franchisee will prominently display a notice to the public on the premises for a period of not less than six (6) months after termination indicating that it is no longer a Kangaroo Express franchisee or an authorized franchisee under the Business System;

(D) for a period of twelve months subsequent to expiration or termination of this Agreement, Franchisee will be subject to the provisions of Article 16; if Franchisor exercises (in its sole discretion) its purchase right under Section 16.1 or if Franchisor is the lessor under the Lease, then, upon request by Franchisor, peaceably surrender possession, occupancy, control and use of the Franchised Location to Franchisor or its designee. Franchisee will, at the request of Franchisor, promptly execute assignments or other transfer documentation in the form requested by Franchisor to perfect the transfer to Franchisor or its designee of Franchisee's interest in or to the right to use and occupy the Franchised Location. The assumption of possession, occupancy and control of the Franchised Location by Franchisor (or its designee) will not relieve Franchisee of any outstanding unpaid obligations that may have accrued prior to the time of assumption of control by Franchisor (or its designee); all such obligations will remain the obligations of Franchisee. If Franchisor elects not to assume possession and control of the Franchised Location, Franchisee will, at Franchisee's expense, make such modifications or alterations thereto immediately upon termination or expiration of this Agreement as Franchisor may demand to prevent the operation of any business therein being confused by the public with a business affiliated with Franchisor for any purpose and will otherwise comply with its obligations under this Section 14.7, including without limitation Section 14.7(C). If Franchisee owns or leases the Franchised Location from someone other than the Franchisor or its Affiliates, this provision does not apply;

(F) reimburse Franchisor (i) the entire amount of the Equipment/Construction Funding, if the termination occurs during the first thirty-six (36) months of the Term, or (ii) if the termination occurs after the first thirty-six (36) months of the Term, the entire amount of the Equipment/Construction Funding, less 1/120<sup>th</sup> of such amount for each month the Store was open and operating in full compliance with the terms of this Agreement, including, but not limited to the timely and full payment of all applicable Royalty Fees and Promotional Fees; and

(G) not remove from the Franchised Location any inventory, equipment or software that is the subject of the Software Agreement or any franchise or license agreement or security agreement with Franchisor or any other party for so long as there remain obligations of Franchisee to Franchisor. Franchisee will give Franchisor and its designated representatives full access to the Franchised Location and all of Franchisee's books and records at any time during customary business hours to conduct any inventory counts and determine the value of the assets. The inventory of good and saleable merchandise will be valued at cost in accordance with the retail inventory accounting method then used by Franchisor. The value of any good and salable equipment owned by Franchisee will in no event exceed the lesser of (i) fair market value or (ii) book value of equipment on the date of expiration or termination of this Agreement. No value will be assigned to unsaleable merchandise and equipment, and Franchisor may direct Franchisee to remove such items from the Franchised Location. The value of such saleable inventory and equipment may, in Franchisor's sole discretion and to the extent that it does not infringe upon the security rights of others, be credited to any outstanding obligations of Franchisee to Franchisor and its ownership will be transferred to Franchisor (if its value is so credited). If the value of the unencumbered saleable inventory and equipment exceeds the amount owed by Franchisee to Franchisor on the date of expiration or termination of this Agreement, Franchisor may select that inventory and equipment the value of which it wishes to apply to the outstanding debt of Franchisee to Franchisor and return the balance of unencumbered inventory and equipment to Franchisee and

Franchisee may dispose of such inventory and equipment, subject to compliance with the other terms of this Section 14.7.

14.8 Interim Period. If this Agreement expires without Franchisee properly exercising its renewal right and Franchisee continues to accept the benefits of this Agreement thereafter, then, at Franchisor's option, Franchisor may treat this Agreement either as: (i) expired as of the date of expiration, with Franchisee then illegally operating a franchise in violation of Franchisor's rights and this Agreement; or (ii) continued on a month-to-month basis (the "**Interim Period**") until both parties agree to enter into Franchisor's then-current form of franchise agreement for a renewal term or until one party provides the other with written notice of termination, in which case the Interim Period will terminate 30 days after receipt of the notice of termination. In the latter case, all of Franchisee's obligations shall remain in full force and effect during the Interim Period as if this Agreement had not expired. All obligations and restrictions imposed on Franchisee upon expiration of this Agreement shall take effect upon termination of the Interim Period.

## ARTICLE 15 TRANSFER

15.1 Transfer by Franchisor. Franchisor may transfer, assign, pledge, and/or delegate any or all of its interests, rights, and/or obligations under this Agreement, in whole or in part, directly or indirectly, by the transfer of the assets, stock, merger, acquisition, or otherwise, without notice to or the consent of Franchisee.

15.2 Transfer by Franchisee. This Agreement is entered into by Franchisor in reliance upon and in consideration of the singular personal skills, qualifications, and representations of, and the trust and confidence reposed in, Franchisee, the Store Manager, and Franchisee's officers, directors, Principal Equity Holders, members, and partners, as the case may be. Accordingly, except as otherwise provided in this Article 15, Franchisee may not pledge, sell, assign, trade, transfer, lease, sublease or otherwise dispose of (collectively, "**Transfer**") any part of, right to, or interest in (A) the Franchised Location; (B) the Store, the Store's land and/or building, whether fee title, leasehold or other interest in real property, including all improvements, structures and fixtures; (C) the furniture, fixtures, equipment and other personal property (including all related contracts and leases) used in the Store (except for transactions involving the sale of merchandise or other inventory in the ordinary course of business or disposal or sale of obsolete equipment in the ordinary course of business); (D) this Agreement; or (E) the Franchised Business (hereinafter clauses (A) through (E) either collectively or individually referred to as the "**Business Assets**") or any corporate, partnership, limited liability company or other ownership interest in Franchisee (collectively, "**Ownership Interest**" and together with the Business Assets, collectively or individually, a "**Franchisee Interest**") without, in each case, the prior written consent of Franchisor, whose consent will not be unreasonably withheld or delayed, and compliance with the terms of this Agreement. Under no condition may Franchisee sublicense its rights hereunder. Except as allowed herein, any purported Transfer in violation of this Agreement, whether by operation of law or otherwise, will be null and void and will constitute a material breach of this Agreement, for which breach Franchisor may immediately terminate this Agreement in accordance with Section 14.2(J). Consent to a Transfer upon specified terms and conditions will not be deemed consent to a Transfer upon any other terms or conditions, nor to any other or

subsequent Transfer. Such consent will be conditioned upon Franchisee being in Good Standing and having complied with the following conditions:

(A) Compliance with Law. The Transfer will have been conducted in compliance with all applicable laws, and the proposed transferee will have secured all governmental permits and licenses required to operate the Store.

(B) Qualified Assignee. Franchisee and the proposed transferee will have demonstrated to Franchisor's reasonable satisfaction that the proposed transferee, and if applicable, the person designated to be the transferee's Store Manager, and the directors, officers, and principal shareholders and partners of the transferee, as the case may be, meet all of Franchisor's then-current qualifications for new franchisees, possess the requisite business experience, including, without limitation, management and sales abilities, and possess the financial resources to fulfill all obligations under the franchise agreement to be executed by the transferee and Franchisor with respect to the Store.

(C) Execution of Franchise Agreement. The proposed transferee will have executed Franchisor's then-current form of franchise agreement and all required related agreements and documentation, which may contain terms and conditions materially different from the terms and conditions hereof, including, without limitation, with respect to the Royalty Fee and Promotional Fee rates, territorial protection, and other material provisions. If the proposed transferee elects not to execute Franchisor's then-current form of franchise agreement, Franchisor has the right to deny the consent of such Transfer.

(D) Other Obligations. The proposed transferee will have expressly assumed in writing all of the obligations of Franchisee and executed all agreements with Franchisor or its Affiliates as required of Franchisee, appointed a Store Manager, assumed all other agreements pertaining to the Store (and all third parties to such agreements will have consented in writing to such assumptions), complied with all applicable provisions of this Agreement, and will have executed the Guaranty attached hereto.

(E) Training. The proposed transferee and its Store Manager will have successfully completed the Training Program.

(F) Transfer Fee. Prior to the proposed transferee attending training, Franchisee or proposed transferee will have paid to Franchisor a nonrefundable transfer fee in an amount equal to the initial franchise fee payable under the then-current form of franchise agreement. A minimum transfer fee of \$3,000 may apply to the following circumstances: (1) the Transfer is to the spouse or adult child of Franchisee, if Franchisee is an individual or, if Franchisee is a corporate entity or partnership and the Transfer is to the adult spouse or child of an owner of at least a majority ownership interest in Franchisee; (2) the Transfer is to a corporation (or other entity) in which Franchisee is the principal shareholder/owner retaining a majority ownership interest and Franchisee remains the officer or manager responsible for the full-time personal operation and supervision of the Store; (3) the Transfer is a transfer of any ownership interest of a partner, shareholder or other owner to another existing partner, shareholder or other owner; provided the majority partner, shareholder or other owner of Franchisee remains the same; or (4) only the name of Franchisee is changed (if Franchisee is a corporation or other entity).

(G) Right of First Refusal. Franchisee will have first offered to sell the Franchisee Interest to Franchisor in accordance with Article 16 and Franchisor will have waived its right to purchase.

(H) Upgrading. Franchisee will have agreed to perform specified upgrading and/or renovation of the Franchised Location and the Store to conform to the current standards and image then required by Franchisor of its new franchisees. All such upgrades and renovations shall be completed within nine months of the Transfer. If the transferee-franchisee fails to timely complete the required upgrades and renovations, its royalty fee rate will be increased by 1% until such time as all required upgrades and renovations have been completed and the default is cured. In addition, in such a situation, Franchisor will have the right to exercise all other rights available to it under the transferee's franchise agreement and applicable law, including the right to terminate the franchise agreement.

(I) Releases and Subordination. Franchisee and Guarantors will have executed a release of all claims related to this Agreement, in a form acceptable to Franchisor, and Franchisee will have subordinated its rights to all payments from the transferee to all obligations of the transferee to Franchisor.

(J) Agreements. Upon Franchisor's request, Franchisee will have provided Franchisor with a complete copy of all agreements and related documentation between Franchisee and the transferee relating to the Transfer.

(K) Landlord Consent. The proposed transferee must have been accepted by the landlord in writing as a substitute tenant for the Franchised Location. Franchisor may refuse to consent to a Transfer if the proposed transferee is not acceptable to the landlord. If Franchisor is the landlord, or sublessor, for the Franchised Location, it has the right to withhold its consent as a landlord in its sole discretion.

(L) Payment of Outstanding Loans, Equipment/Construction Funding, and Fees. Franchisee must have repaid the remaining balance on any loan or the unamortized portion of the Equipment/Construction Funding provided to Franchisee. At the time of seeking Franchisor's consent to a Transfer hereunder, Franchisee must be current on all monthly fee payments due to Franchisor and its Affiliates.

15.3 Change of Ownership. If Franchisee is a corporation, limited liability company, partnership or other entity, then during the Term, Franchisee must notify Franchisor of any Transfer of any Ownership Interest in Franchisee, including, without limitation, any assignment of the legal, beneficial, or voting rights therein, which notice shall include the terms and conditions of such proposed Transfer. Any such Transfer which together with all prior Transfers of Ownership Interests constitutes an assignment of fifty percent (50%) or more of the Ownership Interests in Franchisee since the Effective Date, and any other action, either directly or indirectly, which results in a change in the effective control of Franchisee by those persons having effective voting control of Franchisee as of the Effective Date, will constitute a Transfer of Ownership Interest subject to the conditions of Section 15.2 and subject to the provisions of Section 16.2.

15.4 Death or Incapacity. In the event of the death or permanent incapacity of an individual Franchisee, or of any Principal Equity Holder owning a fifty percent (50%) or greater ownership interest in Franchisee, such person's executor, administrator, personal representative, successor, trustee, or heir (the "**Successor**") may seek Franchisor's approval to succeed to the Franchisee Interest owned by such deceased or incapacitated individual in accordance with the provisions of such person's will or any corporate or partnership buy-sell agreement controlling the issue of succession on death of an owner. If, within thirty (30) days of such death or incapacity, a Successor fails to obtain Franchisor's approval of the Transfer of such Franchisee Interest to such a Successor, the Successor must, within six (6) months from the date of notice of Franchisor's disapproval, Transfer such Franchisee Interest to a transferee acceptable to Franchisor, in compliance with the other provisions of this Article 15. For avoidance of doubt, any such Transfer will constitute a Transfer subject to the conditions of Section 15.2. If such a Transfer is not concluded within the required time period, Franchisor may terminate this Agreement for breach.

15.5 Divorce/Dissolution. If Franchisee is an individual, in the event of divorce or dissolution of marriage of Franchisee, any award by court decree or court-approved property settlement agreement of a Franchisee Interest to the ex-spouse of Franchisee will be considered a Transfer requiring compliance with the provisions of this Article 15, including, without limitation, compliance by Franchisee and the ex-spouse/transferee with Section 15.2, except that such ex-spouse/ transferee will not be required to pay a Transfer Fee. If, in Franchisor's judgment, such ex-spouse/ transferee is not qualified to operate the Store or otherwise assume the Franchisee Interest, such ex-spouse/ transferee will have a period of six (6) months within which to sell the Franchisee Interest to a transferee acceptable to Franchisor, subject to the requirements of this Article 15. If such a Transfer is not concluded within the required time period, Franchisor may terminate this Agreement for breach.

## ARTICLE 16 FRANCHISOR'S OPTION TO PURCHASE ASSETS

16.1 Franchisor's Right to Purchase Business Assets. During the Term and for a period of twelve months following the expiration or termination of this Agreement, Franchisee will not Transfer any interest in or any part of the Business Assets to any party, including any Affiliates of Franchisee, without first offering the same to Franchisor in a written notice that contains all material terms and conditions of the proposed Transfer (hereinafter referred to as the "**Price and Terms**"). If the Business Assets are proposed to be Transferred in conjunction with other assets not related to the Business Assets, the written offer of the "Price and Terms" of the Business Assets must be separately identified to Franchisor. This Section 16.1 does not apply to the pledge of the Business Assets (with the exception of this Agreement) by Franchisee to a bank, other financial institution or other lender made in connection with the financing of the leasehold improvements, or acquisition of furniture, fixtures, supplies and equipment, and/or the real estate and building used in the Store; provided that any such pledge is subject to the provisions of Article 15.

16.2 Transfer of Majority Interest in Franchisee. Prior to any Transfer of Ownership Interests in Franchisee that would result in a change of ownership as described under Section 15.3, Franchisee will offer to Franchisor, in writing, each and all of the Business Assets; provided, that, unless otherwise agreed to in writing by Franchisor and Franchisee, the Price and

Terms for the purchase of such Business Assets shall be established by a qualified appraiser selected by the parties. If the parties cannot agree upon an appraiser, an independent qualified appraiser shall be appointed by a Judge of the United States District Court for the District in which the Franchised Location is located upon petition of either party. For purposes of this provision, Franchisee's shareholders, members, partners or other owners must comply with all other applicable terms and conditions of this Article 16 and Article 15. Further, nothing in this Section 16.2 shall be construed as a limitation on Franchisee's obligations under Article 15, including Section 15.3.

Consistent with the terms of the preceding paragraph, all stock or other certificates of ownership issued by Franchisee evidencing ownership interest in Franchisee must bear the following legend:

“The ownership interests represented by this ownership certificate are subject to a written Franchise Agreement that grants TMC Franchise Corporation (the “Franchisor”) a right of first refusal to purchase these ownership interests from the owner, and any person acquiring the ownership interests represented by this ownership certificate will be subject to the terms and conditions of the Franchise Agreement between the company named on the face of this certificate and Franchisor, which includes provisions containing covenants not to compete that apply to all owners.”

16.3 Notice of Purchase. The notice by Franchisee required under Section 16.1, specifying the Price and Terms of the proposed Transfer, shall also include all ancillary agreements for the Franchised Location and pertinent supplemental financial information necessary to evaluate the merits of the proposed Transfer, including, but not limited to, fuel volume, car wash sales and QSR sales. Franchisor will notify Franchisee once Franchisor has received all of the required information. Franchisor will have sixty (60) days from the date of such notice (or from the date of the notice required under Section 15.3 in the case of a proposed Transfer of Ownership Interest) to either waive its right to purchase or express its interest in purchasing all or a portion of the Business Assets by delivering an acceptance notice (“**Acceptance Notice**”). If Franchisor waives its right to purchase, then Franchisee may complete the Transfer of the relevant Business Assets, or Ownership Interests (as applicable), according to the Price and Terms set forth in the written notice to Franchisor (or the terms provided in the notice delivered under Section 15.3, as applicable); however, any such Transfer to a third party is expressly subject to the other terms and conditions set forth in Article 15. If Franchisee does not consummate the Transfer of the Business Assets or Ownership Interests (as applicable) upon the Price and Terms, or in the case of Ownership Interests, on the terms provided in the notice delivered under Section 15.3, within six months of the date of the original notice to Franchisor containing the Price and Terms, the offer must be made again to Franchisor as set forth in this Article 16. Franchisee's obligations to comply with all of the terms and conditions of this Agreement, including, but not limited to, its obligations to pay the Royalty Fees and Promotional Fees, and to operate the business as a Kangaroo Express Store in compliance with the terms hereof, will in no way be affected or changed because of Franchisor's rejection of Franchisee's offer to purchase the Business Assets hereunder.

16.4 Offsets. The purchase price payable by Franchisor to Franchisee under this Article 16 will be reduced by (a) all amounts owed by Franchisee to Franchisor hereunder, (b) all amounts owed by Franchisee to Franchisor or any Affiliate of Franchisor under any other agreement, (c) Franchisee's unpaid balance of the purchase price with respect to any of the assets purchased by Franchisor hereunder, or if any such assets are subject to a lien, by the balance due on the underlying indebtedness, together with (d) any interest or other charges to be paid in order for Franchisor to acquire such assets free and clear of all liens. If the amount due by Franchisee with respect to any asset exceeds its purchase price paid by Franchisor hereunder, Franchisee will remain solely liable for the difference.

16.5 Assessment of Property Condition; Purchase of Business Assets. Franchisor will have an additional 60 days from the date Franchisee receives the Acceptance Notice to complete the purchase hereunder (the "**Diligence Period**"). During the Diligence Period, Franchisor may enter the Franchised Location to inspect, test, and otherwise make an assessment of the condition of the Business Assets subject to Acceptance Notice, including without limitation the environmental and/or geological condition of any real property included in such Business Assets, and Franchisee hereby grants Franchisor a limited license to enter the Franchised Location for such purposes; provided that any such inspection, testing, and assessment shall be made in a manner so as to minimize interference with normal operations of at the Franchised Location. Franchisor's rights hereunder shall include the right to undertake any testing, surveying, drilling or other analysis, including subsurface testing of the Franchised Location. Franchisor shall indemnify, defend and hold harmless Franchisee against any personal injury or property damage caused by Franchisor or its contractors or employees in making any such inspections, testing, or assessment; provided, however, that in no event shall Franchisor have any liability as a result of any condition of the Franchised Location discovered by Franchisor during the inspections, testing and assessments, or as a result of any statement in any report or other written statement or oral communication regarding the Franchised Location; and provided further that in no event shall Franchisor have any liability for any lost profits or business interruption suffered by Franchisee during, or as result of, any inspection, testing, or other assessment of the Franchised Location conducted by Franchisor.

Subject to offset as provided in Section 16.4, if, following the expiration of the Diligence Period, Franchisor wishes to purchase any such Business Assets hereunder, the Business Assets will be sold to Franchisor on the same price and terms set forth in the Price and Terms; provided, however (and regardless of whether the following are inconsistent with the Price and Terms), that (i) the Business Assets will be sold free and clear of all liens, liabilities or other encumbrances (including, as applicable, with any real or personal property lease payments paid in full through the date of closing of the sale); (ii) the purchase price of any inventory will not be more than the value of such inventory based upon the retail inventory accounting method then used by Franchisor; (iii) Franchisor will have the right to substitute equivalent cash for any noncash consideration included in the Price and Terms; (iv) if the written offer of the Price and Terms includes as consideration for the Business Assets an exchange of other real or personal property interests of the offeror, this shall be deemed to constitute an offer to purchase the Business Assets for a price equal to the fair market value of the real or personal property offered in exchange (the "**Exchange Property**") (plus any other consideration provided for in the Price and Terms). Franchisor is not obligated to accept Franchisee's and offeror's agreed-upon value of any Exchange Property as may be specified in the Price and Terms and may demand a determination by a neutral third-party appraiser

of the fair market value of the Exchange Property. Franchisee shall bear all costs and expenses required to determine the fair market value of any Exchange Property included in the Price and Terms; and (v) Franchisor will have the right to pay in cash at closing the full present value of any post-Transfer payments contemplated under the Price and Terms using a discount rate equal to then-current prime rate as published from time to time in the Money Rates section of The Wall Street Journal or a comparable index selected by Franchisor; (vi) Franchisor will prepare the transaction documents for the Transfer, which will be on terms customary for this type of transaction (including representations and warranties, covenants, conditions, and indemnification, including indemnification for any environmental contamination of the Franchised Location), (vii) Franchisor's purchase may be limited to any assets related to the Store, and (viii) Franchisee shall cooperate and promptly undertake such action as may be requested by Franchisor to transfer any applicable permits, leases, or other rights to Franchisee.

## ARTICLE 17 INDEMNIFICATION

17.1 Indemnification. Except as otherwise expressly provided in this Agreement, and without limiting Franchisor's common law rights of indemnification, Franchisee assumes sole and complete responsibility for and will, to the maximum extent permitted by law, defend, protect, indemnify, and hold harmless Franchisor, its Affiliates, and their respective directors, employees, officers, shareholders, managers, members, agents and successors and assigns (individually an "**Indemnified Party**" and collectively the "**Indemnified Parties**"), from and against any and all losses, costs, expenses, damages, and liability (including, without limitation, attorneys' fees and court costs) arising out of or relating to this Agreement, Franchisee's negligence, the operation or use of the Franchised Location or the Store, including any contracts with third parties related to the operation of the Store, including any Additional Business, or the equipment or supplies used in connection therewith, and whether arising from bodily injury, personal injury, or property damage, or any other violation of the rights of others, or in any other manner, whether incurred for an Indemnified Party's primary defense or for enforcement of its indemnification rights hereunder, on account of any personal injury, disease, or death of any person(s), damage to or loss of any property, or money damages or specific performance owed to any third party (by contract or operation of law), and any fines, penalties, assessments, environmental response costs, or injunctive obligations imposed upon any of the Indemnified Parties caused by, arising out of, or in any way incidental to, or in connection with, Franchisee's performance hereunder, or the performance, acts, or omissions by any retail customer or consumer served by Franchisee (including employees, agents, contractors, and invitees of Franchisee and Franchisee's retail customers and consumers), or any other person, including any Approved Third-Party Operator.

17.2 Risk Allocation. It is the intention of the parties hereto, in connection with an agreed allocation of risk between them, that the indemnity obligations of Franchisee are without regard to whether the negligence, fault, or strict liability of any of the Indemnified Parties is a concurrent or contributory factor, and such obligations are intended to protect the Indemnified Parties against the consequences of their own negligence, fault, or strict liability. Only those matters which are determined by a final, nonappealable judgment to be a result of the sole negligence, intentional acts, or other legal fault of any of the Indemnified Parties or defects in Franchisor's products not caused or contributed to by the negligence or fault of Franchisee or Franchisee's employees, agents, contractors, invitees, customers, or consumers will be excluded

from Franchisee's duty to indemnify the Indemnified Parties under such circumstances. Such duty to defend and protect the Indemnified Parties will include, without limitation, investigation and costs of defense and settlement, including reasonable attorneys' fees up through final appeal of a trial court judgment or arbitration.

17.3 Defense of Claims. Nothing herein will limit Franchisor's right to participate in its defense with counsel of its own choosing. If Franchisor does so, Franchisee will instruct its counsel to cooperate fully with Franchisor and its counsel, including furnishing such information as Franchisor or its counsel may request. Any costs incurred by Franchisor in defending any claims will be paid by Franchisee as provided in Section 17.1.

17.4 Survival of Indemnity. Franchisee's indemnity obligations as provided in this Article 17 will survive the expiration, termination, or nonrenewal of this Agreement and the License granted hereunder.

17.5 Notification of Possible Indemnity Events. Franchisee will notify Franchisor of any event that is or may be subject to indemnity as provided herein, and which has resulted or may result in personal injury, death, disease, or destruction of property, by telephone within twenty-four (24) hours after such event and in writing within three (3) days after such event.

## ARTICLE 18 DISPUTE RESOLUTION

18.1 Negotiation; Mediation. Except as expressly provided herein, the parties will attempt to settle disputes arising out of or relating to this Agreement, the parties' relationship or the Store or the Franchised Business by a meeting (either via phone conference, video conference, or in person) of designated representatives of Franchisor and Franchisee within ten (10) days after a request by either party to the other party asking for the same. If the meeting is not held within the prescribed ten (10) day period, or such dispute is not fully resolved at this meeting, either party may initiate mediation of the dispute. The parties will designate a sole mediator, or if the parties are unable to agree upon a mediator within fourteen (14) days of initiating mediation, selection of the mediator will be governed by then-current CPR-Mediation Rules under the Center for Public Resources ("CPR") Model Procedure for Mediation of Business Disputes. If rules for the mediation are not mutually agreed upon by the parties, the then-current rules for mediation of business disputes of the CPR will apply. The mediation will take place within forty-five (45) days after a mediator is selected in the county in which Franchisor's headquarters are located at the time mediation is demanded (currently Maricopa County, Arizona). Each party will bear its own costs of mediation and share equally the mediator's fees.

18.2 Arbitration. If (a) not resolved by mediation within sixty (60) days of the selection of the mediator, or (b) at any time (including prior to initiating mediation or during mediation) a party believes that mediation would be futile (because of the other party's lack of cooperation), and except as qualified below, any dispute between Franchisor and Franchisee or their respective Affiliates arising under, out of, in connection with or in relation to this Agreement, the parties' relationship, the Store or the Franchised Business must be submitted to binding arbitration under the authority of the Federal Arbitration Act and in accordance with the Center for Public Resources Rules Non-Administered Arbitration of Business Disputes then in effect.

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 or otherwise to join or consolidate any claim with any other claim or any other proceeding involving third parties. If a court determines that this limitation on joinder of or class action certification of claims is unenforceable, then this entire commitment to arbitrate will become null and void and the parties must submit all claims to the jurisdiction of the courts. The arbitration must take place in the county in which Franchisor's headquarters are located at the time arbitration is demanded (currently Maricopa County, Arizona). The arbitrator must follow the law and the terms of this Agreement. The arbitrator must have at least 5 years of significant experience in franchise law. A judgment may be entered upon the arbitration award by any state or federal court in the state where Franchisor maintains its headquarters or the state where the Store is located. The decision of the arbitrator will be final and binding on all parties to the dispute; however, the arbitrator may not under any circumstances: (1) stay the effectiveness of any pending termination of this Agreement; or (2) make any award which extends, modifies or suspends any lawful term of this Agreement or any reasonable standard of business performance that Franchisor sets. All applicable statutes of limitations will be tolled while the procedures specified in this Article 18 are pending. The parties will take such action, if any, as required to effectuate such tolling.

18.3 Exception to Arbitration. Notwithstanding Section 18.2, the parties agree that the following claims will not be subject to arbitration:

1. any action for declaratory or equitable relief, including, without limitation, seeking preliminary or permanent injunctive relief, specific performance, other relief in the nature of equity to enjoin any harm or threat of harm to such party's tangible or intangible property, brought at any time, including, without limitation, prior to or during the pendency of any arbitration proceedings initiated hereunder.
2. any action in ejectment or for possession of any interest in real or personal property.
3. any action for the collection of moneys owed to Franchisor or its affiliates; and
4. any action related to the obligations of Franchisee upon termination or expiration of this Agreement, including, without limitation related to covenants not to compete and confidentiality obligations.

18.4 Injunctive Relief. Franchisor will be entitled to seek the entry of temporary and permanent injunctions and orders of specific performance enforcing the provisions of this Agreement relating to: (A) the Marks and the Business System; (B) the obligations of Franchisee upon termination or expiration of this Agreement; (C) the assignment of this Agreement, the Franchised Business, and ownership interests in Franchisee; (D) the covenants not to compete; (E) confidentiality; or (F) any act or omission by Franchisee, the Store or employees of the Store that (i) constitutes a violation of any applicable law, ordinance or regulation, (ii) is dishonest or misleading to customers or prospective customers of the Store or other Kangaroo Express Stores, (iii) constitutes a danger to employees or customers of the Store or to the public, or (iv) may impair the goodwill associated with the Marks and the Business System. Franchisee will indemnify Franchisor for all costs that it incurs in any such proceedings including, without limitation, reasonable attorneys' fees, expert witness fees, costs of investigation, Court costs, accounting fees,

travel and living expenses, and all other costs incurred by Franchisor. Franchisor will be entitled to seek injunctive relief against Franchisee without the posting of any bond or security, unless required by applicable law.

18.5 Cumulative Rights. The rights of Franchisor hereunder are cumulative and no exercise or enforcement by Franchisor of any right or remedy hereunder will preclude the exercise or enforcement by Franchisor of any other right or remedy hereunder or to which Franchisor is entitled by law to enforce.

18.6 Venue and Jurisdiction. Unless otherwise prescribed by applicable law, and subject to the provisions of Sections 18.1 and 18.2 regarding mediation and arbitration, all lawsuits, court hearings, proceedings or other actions initiated by either party against the other party will be venued in the county where Franchisor's headquarters are then located (currently, Maricopa County, Arizona). Consequently, Franchisee, each of its officers, directors, members, shareholders or other owners do hereby agree to submit to personal jurisdiction in such county, for the purpose of any action or dispute arising out of this Agreement, the Franchised Location or the Store, and do hereby agree and stipulate that any such proceedings will be exclusively venued in such county. THE PARTIES HEREBY WAIVE A RIGHT TO A JURY TRIAL IN ANY LAWSUIT RELATED TO THIS AGREEMENT OR THE PARTIES' RELATIONSHIP HEREUNDER.

## ARTICLE 19 NOTICES

All notices required or permitted to be given under this Agreement to Franchisor will be in writing and will be made by overnight courier service, personal service upon an officer, or sent by prepaid registered or certified United States mail to any such officer of Franchisor, and will be deemed to have been duly given 24 hours after being sent by overnight courier service or five (5) days after being deposited in the United States mail for certified or registered delivery, addressed to Franchisor at its principal office address (currently: 1130 West Warner Road, Tempe, Arizona 85284, Attention: Worldwide Franchising Group, or such other address as Franchisor may from time to time specify in accordance with this Article 19). All notices required or permitted to be given under this Agreement to Franchisee will be made by personal service upon Franchisee or, if applicable, an officer or director of Franchisee or sent by overnight courier service, personal service or prepaid registered or certified United States mail addressed to Franchisee at the Franchised Location, or such other address as Franchisee may designate in writing. Notice delivered by a delivery service that requires a written receipt signed by the addressee will be deemed to have been personally served under this Agreement. Franchisor may provide notice or other information to Franchisee by electronic or telephonic means including by facsimile or through the Internet or other online means.

## ARTICLE 20 MISCELLANEOUS

20.1 Relationship of Parties; Independent Contractor. Franchisee is an independent contractor. Nothing in this Agreement will be deemed or construed to create the relationship of principal and agent, partnership, joint venture, employment, or a fiduciary relationship, and

Franchisee will not hold itself out as an agent, legal representative, partner, subsidiary, joint venturer, servant or employee of Franchisor. Neither Franchisor nor Franchisee has the right to bind or obligate the other to any obligations or debts. It is expressly understood and agreed that neither Franchisee nor any employee or contractor of Franchisee whose compensation for services is paid by Franchisee may, in any way, directly or indirectly, expressly or by implication, be construed to be an employee of Franchisor for any purpose, most particularly with respect to any mandated or other insurance coverage, tax or contributions, or requirements pertaining to withholdings, levied or fixed by any city, state, or Federal governmental agency. There are no third party beneficiaries under this Agreement, except for any indemnified party (or other person entitled to be indemnified pursuant to this Agreement).

20.2 Conduct of Business. It is acknowledged that Franchisee is the independent owner of its business, in full control thereof to conduct such business in accordance with Franchisee's own judgment and discretion, subject only to the provisions of this Agreement and such other agreements as may be entered into by the parties. Franchisor will neither regulate nor be responsible for the hiring or firing of Franchisee's agents or employees or for Franchisee's contracts. Franchisee will conspicuously identify itself, and the Store, and in all dealings with its clients, contractors, suppliers, public officials and others, as an independent franchisee of Franchisor, and will place such notice of independent ownership on all forms, business cards, stationery, advertising, signs and other materials and in such fashion as Franchisor may specify from time to time and as set forth in the mandatory provisions of the Business Systems Manuals or otherwise.

20.3 Approval. In all cases where Franchisor's prior approval is required and no other method or times for obtaining such approval is prescribed, Franchisee will request such approval in writing, and Franchisor will notify Franchisee in writing of its decision within ten (10) business days after receiving Franchisee's written request and all supporting documentation. Franchisor's consent to or approval of any act or request by Franchisee will not be deemed to waive or render unnecessary consent or approval of any subsequent similar act or request.

20.4 Successors. Subject to any restrictions regarding Transfer set forth herein, this Agreement will be binding upon and inure to the benefit of the parties hereto and their respective permitted successors, assigns, executors, administrators, heirs, and personal representatives.

20.5 Governing Law. Except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. §1051 et seq.), and the Federal Arbitration Act (9 U.S.C. § 1, et seq.) this Agreement and the relationship between Franchisor and Franchisee will be governed by the laws of the State of Arizona, without regarding to any conflicts of laws principles.

20.6 Franchisor's Right of Self-Help. In addition to Franchisor's rights of self-help set forth elsewhere in this Agreement, if Franchisee at any time fails to perform any of its obligations under this Agreement in a manner reasonably satisfactory to Franchisor, Franchisor will have the right, but not the obligation, upon giving Franchisee at least ten (10) days' prior written notice of its election to do so (except that in the event of an emergency no prior written notice will be required), to perform such obligations on behalf of and for the account of Franchisee and to take all such action necessary to perform such obligations, including the right to enter the

Store. In such event, Franchisor's costs and expenses incurred therein will be reimbursed by Franchisee to Franchisor forthwith upon demand therefor plus interest thereon from the date Franchisor performs such work at the highest lawful rate pertaining to loans between businesses in the state whose law governs this Agreement, or in the absence of a maximum rate specified by state law, eighteen percent (18%) per annum. The performance by Franchisor of any such obligation will not constitute a release therefrom or waiver thereof.

20.7 Counterparts. This Agreement may be executed in one or more counterparts, all of which will constitute one agreement and will not be binding on Franchisor unless and until it has been accepted and signed by an authorized officer of Franchisor.

20.8 Variations. Franchisor reserves the right to modify Franchisee's obligations hereunder to conform to applicable law and to modify Franchisee's obligations with the consent of Franchisee if such modification is deemed to be in the best interest of promoting the Business System, provided, however, that Franchisor will be under no obligation to grant such similar modification to other franchisees, and vice versa.

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

20.10 Waiver. Franchisor or Franchisee may by written instrument signed by both Franchisor and Franchisee, waive any obligation of or restriction upon the other under this Agreement. Acceptance by Franchisor of any payment by Franchisee and the failure, refusal or neglect of Franchisor to exercise any right under this Agreement or to insist upon full compliance by Franchisee of its obligations hereunder including, without limitation, any mandatory specification, standard or operating procedure, will not constitute a waiver by Franchisor of any provision of this Agreement. Franchisor will have the right to waive obligations or restrictions for other franchisees under their license agreements without waiving those obligations or restrictions for Franchisee, and, except to the extent prohibited by law, Franchisor will have the right to negotiate terms and conditions, grant concessions, and waive obligations for other franchisees without granting those same rights to Franchisee and without incurring any liability to Franchisee whatsoever.

20.11 Entire Agreement. This Agreement and all exhibits, addenda and appendices to this Agreement and the application form executed by Franchisee constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior

negotiations, understandings, representations and agreements. Nothing in this Agreement or in any related agreement, however, is intended to disclaim the representations Franchisor made in the Franchise Disclosure Document that was furnished to Franchisee. Nothing in this Section 20.11, however, shall be construed as terminating or limiting Franchisee's duties or obligations under any agreement with Franchisor or its Affiliates, including, without limitation any financing agreements or the Software Agreement.

20.12 Joint and Several Obligations. If Franchisee consists of more than one individual, then the liability of all such individuals under this Agreement will be joint and several.

20.13 No Oral Modifications. No modifications, changes, additions, rescissions, releases, amendments or waivers of this Agreement and no approval, consent or authorization required by any provision of this Agreement may be made except by a written agreement subscribed to by a duly authorized officer of Franchisee and the president or other duly authorized officer of Franchisor.

20.14 Headings; Terms. The headings of the Articles and Sections used in this Agreement are for convenience only and do not define, limit or construe the contents of such Articles or Sections. The term "Franchisee" as used herein is applicable to one or more persons, a corporation, a partnership or other entity, as the case may be, and the singular usage includes the plural, the masculine usage includes the feminine and neuter, and vice versa. References to "Franchisee", "assignee", and "transferee" which are applicable to an individual or individuals will mean the principal owner or owners of the equity or operating control of Franchisee or any such assignee or transferee if Franchisee or such assignee or transferee is a corporation, partnership or other entity.

20.15 Interpretation of Rights and Obligations. The following provisions will apply to and govern the interpretation of this Agreement, the parties' rights under this Agreement, and the relationship between the parties:

(A) Franchisor's Rights. Whenever this Agreement provides that Franchisor has a certain right, that right is absolute and the parties intend that Franchisor's exercise of that right will not be subject to any limitation or review. Franchisor has the right to operate, administrate, develop, and change the Business System in any manner that is not specifically precluded by the provisions of this Agreement.

(B) Franchisor's Reasonable Business Judgment. Whenever Franchisor reserves or is deemed to have reserved discretion in a particular area or where Franchisor agrees or is deemed to be required to exercise its rights reasonably or in good faith, Franchisor will satisfy its obligations whenever it exercises Reasonable Business Judgment in making its decision or exercising its rights. A decision or action by Franchisor will be deemed to be the result of "**Reasonable Business Judgment**", even if other reasonable or even arguably preferable alternatives are available, if Franchisor's decision or action is intended, in whole or significant part, to promote or benefit the Business System generally even if the decision or action also promotes a financial or other individual interest of Franchisor. Examples of items that will promote or benefit the Business System include, without limitation, 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 Business System.

20.16 Force Majeure. Any failure or delay in performance of this Agreement (other than a payment obligation) according to its terms by Franchisor or Franchisee shall not be deemed a breach of the Agreement if the failure to perform arose from a cause beyond the control of, and without the negligence of, the non-performing party. Except as may be specifically provided for elsewhere in this Agreement, such causes include, but are not limited to, strikes, wars, riots, civil commotion, acts of God, and acts of government.

20.17 Anti-Terrorism Provision. Franchisee, on behalf of itself and each Principal Equity Holder, and each Guarantor represents and warrants to Franchisor that: (a) neither Franchisee nor any Principal Equity Holder nor any Guarantor is named, either directly or by an alias, pseudonym or nickname, on the lists of “Specially Designated Nationals” or “Blocked Persons” maintained by the U.S. Treasury Department’s Office of Foreign Assets Control currently located at [www.treas.gov/offices/enforcement/ofac/](http://www.treas.gov/offices/enforcement/ofac/); (b) Franchisee and each Principal Equity Holder will take no action that would constitute a violation of any applicable laws against corrupt business practices, against money laundering and against facilitating or supporting persons or entities who conspire to commit acts of terror against any person or entity, including as prohibited by the U.S. Patriot Act (currently located at <http://www.epic.org/privacy/terrorism/hr3162.html>), U.S. Executive Order 13244 (currently located at <http://www.treas.gov/offices/enforcement/ofac/sanctions/terrorism.html>) or any similar laws; and (c) Franchisee, each Guarantor and each Principal Equity Holder shall immediately notify Franchisor in writing of the occurrence of any event or the development of any circumstance that might render any of the foregoing representations and warranties false, inaccurate or misleading and shall immediately take all actions required to remedy the situation and remove the violation.

20.18 Survival. All obligations of the parties that expressly, or by their nature, survive the effective date of termination or expiration of this Agreement shall continue in full force and effect subsequent to such termination or expiration until they are satisfied in full. Franchisee shall remain fully liable for any and all obligations of the Store, whether incurred before, or after, the effective date of termination or expiration of this Agreement, including obligations arising under this Agreement, the lease, and all obligations owed to Franchisor, its affiliates and other third parties, including obligations for inventory, equipment, supplies, materials, salaries and benefits to employees, and taxes.

20.19 Other Franchisees. Franchisee acknowledges that it is aware that Franchisor’s other franchisees operate under a number of different forms of agreement that were entered into at different times and that, consequently, the obligations and rights of the parties to other agreements may differ materially in certain instances from Franchisee’s rights and obligations under this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date indicated below.

**FRANCHISOR:**

TMC FRANCHISE CORPORATION

By: \_\_\_\_\_ **Effective Date:** \_\_\_\_\_

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

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

**FRANCHISEE:**

[ \_\_\_\_\_ ]

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

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

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

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

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

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

Franchisee designates the following person as the Key Individual:

\_\_\_\_\_  
Printed name

## **Schedule 1 to Franchise Agreement – Definitions**

In addition to terms defined elsewhere in this Agreement, for purposes of this Agreement, the following terms will have the following meanings:

1. **“Affiliate”** means, with respect to a party hereto, any person or entity that directly or indirectly owns or controls the referenced party, that is directly or indirectly owned or controlled by the referenced party, or that is under common control with the referenced party. The term **“control”** of an entity means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity, whether through ownership of voting securities, by contract or otherwise. For avoidance of doubt, an affiliate of Franchisor includes, without limitation, Circle K Stores Inc. and any of its subsidiaries, and Alimentation Couche-Tard and any of its subsidiaries, now existing or hereinafter formed or acquired.

2. **“Agreement”** means this Franchise Agreement, and all amendments, addenda, modifications, Exhibits or extensions thereto that may be mutually agreed upon by Franchisor and Franchisee.

3. **“Business System”** means the Methods, Techniques, and Marks.

4. **“Confidential Information”** means all information and knowledge about the Business System and the services, standards, specifications, programs, procedures, and techniques prescribed by Franchisor which are not in the public domain or generally known in the convenience store industry including, but not limited to, the Business Systems Manuals, any other manuals, methods, policies, procedures, programs and standards created for or approved for use in the operation of the Store, and the information contained therein, trade secrets, information, data, Customer Information, software, technology, materials, know-how, ideas, techniques, procedures, marketing plans, strategic plans, research methods, methods of operation, improvements, and copyrighted materials (whether published, confidential, or suitable for registration or copyright), and the goodwill associated with them, information concerning the pricing structure, advertising, and promotional discounts relating to items offered at the Kangaroo Express Store, and any other information and material concerning the Business System or that Franchisor may designate as confidential or that a reasonable person would consider confidential (due to nature of the information and/or circumstances of disclosure).

5. **“Conversion Store”** means an existing convenience store not currently operated under the Marks as of the Effective Date that is being converted to a Kangaroo Express Store pursuant to the terms and conditions contained herein.

6. **“Effective Date”** means the date that this Agreement is executed by Franchisor, unless otherwise specified on the signature page hereto.

7. **“Electronic Point of Sale and Software Agreement”** means the agreement set forth in Exhibit 2 attached hereto.

8. **“Existing Store”** means an existing convenience store currently controlled, owned, or operated by Franchisor or its Affiliate, and operating under the Marks as of the Effective Date.

9. **“Franchised Business”** means the operation of the Store at the Franchised Location subject to the terms of this Agreement.

10. **“Good Standing”** means that all amounts of money due and owing to Franchisor or its Affiliates by Franchisee have been paid and that Franchisee is not otherwise in default hereunder or in violation of any of the material provisions set forth herein or in the Business Systems Manuals.

11. **“Gross Sales”** means the total dollar revenue from the sale of all goods, wares, merchandise, and services sold (including car wash services, provided the car wash is using the Marks), whether sold for cash, for payment by check, on credit, on barter or otherwise, without reserve or deduction for the inability or failure to collect from customers, and all other items of value received by Franchisee as payment in the course of such operations (including, without limitation, handling and placement fees and fees for the operation of coin-operated and other machines), excluding the following: (i) revenue from sales of motor fuel, car wash services that do not use the Marks, money orders, lottery, pay phones, ATMs, postage stamps, pre-paid phone cards, gift cards, and gaming machines; (ii) revenue from sales from other approved royalty-based franchises that require separate point-of-sale equipment as part of their business system (excluding any approved Additional Business that is subject to the separate Co-Branded Fee as set forth in Section 5.3); (iii) the amount of any authorized cash or credit refunds made upon transactions that were previously included in Gross Sales, not exceeding the selling price of merchandise returned by the customer and accepted, which refunds may be deducted from Gross Sales in the month made; and (iv) the amount of any separated, collected, and stated city, county, state, or federal sales, luxury, or excise tax on such sales, which Franchisee pays directly to the governmental taxing authorities rather than to its suppliers; provided, however, that no franchise or capital-stock tax or any other similar tax based upon income, profits, or gross sales shall be deducted from Gross Sales. Notwithstanding the foregoing, Franchisor may, in its sole discretion, from time to time approve in writing that with respect to certain products or services, Gross Sales shall be calculated on the basis of earnings as opposed to sales proceeds. If applicable law prohibits collection of royalty fees on sale of alcoholic beverages from the Store, the definition of Gross Sales will not include any income from the sale of alcoholic beverages.

12. **“Guarantor” or “Guarantors”** means all persons or entities that execute a Personal Guaranty in the form attached as Exhibit 5.

13. **“Kangaroo Express Store”** means a retail convenience store operating under the name “Kangaroo Express” and under the other Marks and the Business System, which is a full service convenience store with sufficient floor space, vehicle parking, and inventory levels to offer all of the merchandise and services of a traditional convenience store and that complies with the specifications of a “Kangaroo Express” Store as more fully described in the Business Systems Manuals.

14. **“Key Individual”** means (a) Franchisee, if Franchisee is an individual, or (b) an owner of Franchisee with the authority and responsibility for the operation and management of the Store and identified by name on the signature page of this Agreement, if Franchisee is a legal entity. The Key Individual must be a person authorized to represent and bind Franchisee in all matters arising under this Agreement (including all related agreements) and all matters relating to the Store.

15. “**Marks**” means the name, “Kangaroo Express” and certain other distinctive trademarks, trade names, service marks, copyrights, interior and exterior building designs and specifications (including the unique motif, décor, and color combinations that comprise the trade dress of Kangaroo Express Stores), slogans, logos, social media indicators, social media handles and commercial symbols together with all goodwill associated therewith, as identified in the Business Systems Manuals or otherwise by Franchisor in writing.

16. “**Methods**” means the unique and distinguishing characteristics and methods for the operation of Kangaroo Express Stores, including without limitation, exterior and interior construction designs, equipment layout, operating methods, services, advertising and promotional materials, sales techniques, signs, personnel management and control systems, and bookkeeping and accounting systems, and systems for inventory control.

17. “**New Store**” means a convenience store that is not a Conversion Store, but is to be constructed and operated under the Marks and the Business System pursuant to the terms of this Agreement.

18. “**Open Date**” means the date on which Franchisor deems the Store to have first opened for business, in accordance with the terms hereof.

19. “**Principal Equity Holders**” means, if Franchisee is a corporation, the shareholders of such corporation owning directly or beneficially 10% or more of such corporation’s stock upon the Effective Date or at any time thereafter, and, if Franchisee is a partnership, limited partnership, limited liability company or other entity, the holders that own, directly or indirectly, 10% or more of the equity interests in such entity, as of the Effective Date or at any time thereafter.

20. “**Store**” means the Kangaroo Express Store located at the Franchised Location and operated by Franchisee under the Marks and the Business System, subject to the terms of this Agreement.

21. “**Store Manager**” means an employee of Franchisee designated by Franchisee to work at, and have the responsibility for managing the day-to-day operations of, the Store.

22. “**Techniques**” means the Methods, together with the Confidential Information, owned by Franchisor and its Affiliates and licensed by Franchisor to its franchisees for the operation of Kangaroo Express Stores.

23. “**Transfer Date**” means (a) the date on which the Store is transferred to Franchisee hereunder, if the Store is an Existing Store, or (b) the date the Store is transferred to a new franchisee if the Store is being transferred or sold to a third party in accordance with the terms hereof.

Exhibit 1 to Franchise Agreement

**DATA SHEET**

1. **Franchisee:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
2. **Franchised Location.** As referred to in Section 2.1 of the Franchise Agreement, the Franchised Location is: \_\_\_\_\_
  
3. **Open Date.** As referred to in Section 3.1 of the Franchise Agreement, the Open Date of the Store is: \_\_\_\_\_
  
4. **Expiration Date.** As referred to in Section 3.1 of the Franchise Agreement, the Expiration Date of the Franchise Agreement is: \_\_\_\_\_
  
5. **Equipment/Construction Funding.** As referred to in Section 7.8 of the Franchise Agreement, Franchisee accepted the following amount of Equipment/Construction Funding from Franchisor: \$\_\_\_\_\_.
  
6. **Initial Franchise Fee.** As referred to in Section 5.1 of the Franchise Agreement, Franchisee will pay Franchisor an Initial Franchise Fee in the amount of \$12,500, payable in full upon the parties' execution of this Agreement.
  
7. **Monthly Royalty Fee.** As referred to in Section 5.2 of the Franchise Agreement and subject to any increases to the Royalty Fee as outlined in the Franchise Agreement, Franchisee's monthly Royalty Fee during the Term will be the greater of: A) \_\_\_% of monthly Gross Sales, or B) \$1,000.

Exhibit 2 to Franchise Agreement

**ELECTRONIC POINT OF SALE  
AND  
SOFTWARE AGREEMENT**

This Electronic Point of Sale and Software Agreement (this “Agreement”) is entered into by and between TMC Franchise Corporation, an Arizona corporation, with offices at 1130 West Warner Road, Tempe, Arizona 85284 (“TMC”), and «ContractName» (“Franchisee”), effective as of the Effective Date (as defined below).

**1. POINT OF SALE EQUIPMENT**

**1.1 Equipment and Kangaroo Express Systems.** TMC, as franchisor, has entered into a Franchise Agreement with Franchisee (the “Franchise Agreement”) granting Franchisee the right to operate a convenience store (hereinafter the “Store”) at a specified location (the “Premises”) utilizing the Kangaroo Express operating systems, point of sale systems and trademarks (collectively, “Kangaroo Express Systems”).

- 1.1.1 Franchisee agrees to purchase or lease (for the term of the Franchise Agreement) and install on the Premises the electronic point of sale equipment and back office system as set forth on **Exhibit A** attached hereto or from time to time designated by TMC (collectively, “Equipment”), to provide for, *inter alia*, electronic capture and transmission of transaction data for credit and debit cards, gift cards, electronic messages, inventory management, purchase, and sales reporting, in order to maintain the operation of the Store in accordance with the terms of the Franchise Agreement and related agreements. The Equipment includes card authorization systems and integrated retail store management systems, back office system, and any other retail point of sale systems as may be required by TMC from time to time. Franchisee agrees to upgrade and replace the Equipment from time to time as required under the Franchise Agreement.
- 1.1.2 Franchisee acknowledges that TMC is not supplying, leasing, selling, supporting or maintaining the Equipment or providing training to Franchisee related thereto and TMC only requires that the Equipment be purchased or leased from designated third-party suppliers that provide appropriate training, support and maintenance and that the Equipment comply with the technical configurations established or approved by TMC to ensure that the Equipment is compatible with the Kangaroo Express Systems. If TMC is required to configure the Equipment for Franchisee, Franchisee will be obligated to reimburse TMC for the reasonable costs and expenses of such configuration, including, but not limited to, expenses for travel and lodging.
- 1.1.3 Any new or additional Equipment delivered to Franchisee or installed on the Premises shall become attachments, accessions, and/or accessories to the Equipment and shall be subject to the terms and conditions of this Agreement.

1.1.4 Franchisee agrees not to add additional hardware not designated by TMC to the Equipment, TMC Software (as defined below), and Third-Party Software (as defined below) without TMC's prior written consent.

**1.2 Equipment Use and Maintenance.** The Equipment shall be used solely for the storage and transmission of point of sale data pertaining to the Store and such other uses as may be approved in advance by TMC. Franchisee is solely responsible for ongoing maintenance and repair of the Equipment and all related hardware. Franchisee is also solely responsible for the replacement of items, including, but not limited to, ink, ribbons, invoice tickets, pin pads, cleaning cards, and papers for terminals. TMC shall not be responsible to Franchisee for any loss of funds or profits resulting from tampering with, malfunction or failure of the Equipment to operate properly. Franchisee further agrees to pay all license fees and other charges required by manufacturers and third-party software licensors for the use, operation, and maintenance of the Equipment, and all damages caused by Franchisee's negligence or misuse.

**1.3 Equipment Warranty Disclaimer.** FRANCHISEE SPECIFICALLY ACKNOWLEDGES AND AGREES THAT TMC MAKES NO EXPRESS OR IMPLIED WARRANTY REGARDING MERCHANTABILITY OR FITNESS OF USE OF THE EQUIPMENT FOR ANY PURPOSE WHATSOEVER.

**1.4 Franchisee Default; Termination.** If Franchisee defaults under the Franchise Agreement or this Agreement, TMC may, at its option, (i) if the Equipment is leased, notify Franchisee that it agrees to assume and succeed to all of Franchisee's rights under the Equipment lease for all or any part of the remaining term of such Equipment lease or, (ii) if Franchisee has purchased the Equipment, notify Franchisee that it desires to exercise its option to purchase Franchisee's interest in the Equipment for its then-current fair market value. If the parties cannot agree as to the fair market value of the Equipment, then the parties agree that fair market value shall be determined by a qualified appraiser selected by the parties. If the parties cannot agree upon an appraiser, an independent qualified appraiser shall be appointed by a Judge of the United States District Court for the District in which the Store is located upon petition of either party. If this Agreement is terminated, TMC may require Franchisee to pay all fees associated with the disconnection and removal of the Equipment.

## **2. SOFTWARE LICENSES**

**2.1 TMC Software.** Franchisee agrees to license and use the software designated by TMC from time to time to operate the Equipment ("TMC Software"). TMC may upgrade, change, or modify the TMC Software at any time upon sixty (60) days' advance written notice. Franchisee agrees to license from TMC the TMC Software identified in **Exhibit B** to this Agreement for a Software License Fee of Zero Dollars (\$0) per month payable to TMC at the same time when royalty payments are due for the preceding month by (i) ACH account withdrawals from Franchisee's bank account, or (ii) at TMC's election, by mail to TMC Franchise Corporation, P.O. Box 52085, Phoenix, Arizona 85072-2085. TMC reserves the right to increase the Software License Fee upon sixty (60) days' advance written notice.

**2.2 License Grant for TMC Software.** The foregoing license grant to Franchisee to use the TMC Software is subject to the following terms and conditions:

- 2.2.1 TMC grants Franchisee a license to use one copy of the TMC Software. The term “Use” means storing, loading, installing, executing, or displaying the TMC Software in accordance with the Business Systems Manual standards. Franchisee may not modify the TMC Software or disable any licensing or control features of the TMC Software. If TMS grants Franchisee the TMC Software license for “concurrent use”, Franchisee may not allow more than the maximum number of authorized users to use the TMC Software concurrently.
- 2.2.2 The TMC Software is owned and copyrighted by TMC, its Affiliate(s), or its third-party suppliers. TMC has the right to license the use of the TMC Software to Franchisee. The license to Franchisee hereunder confers no title or ownership in the TMC Software and is not a sale of any rights in the TMC Software. TMC, its Affiliate(s) and/or its third-party suppliers may protect their rights in the TMC Software if Franchisee violates any of these license terms.
- 2.2.3 Franchisee may only make copies or adaptations of TMC Software for archival purposes or when copying or adaptation is an essential step in the authorized use of the TMC Software. Franchisee must reproduce all copyright notices in the original software on all copies or adaptations. Franchisee may not copy the TMC Software onto any bulletin board or similar system.
- 2.2.4 Franchisee may not disassemble or decompile the TMC Software unless it has obtained TMC’s prior written consent. In some jurisdictions, TMC’s consent may not be required for disassembly or decompilation. Upon request, Franchisee will provide TMC with reasonably detailed information regarding any disassembly or decompilation. Franchisee may not decrypt TMC Software unless decryption is a necessary part of the operation of the software.
- 2.2.5 This license will automatically terminate upon any transfer of the TMC Software without TMC’s prior written consent. However, if a transfer is approved, then upon transfer, Franchisee must deliver the TMC Software, including any copies and related documentation, to the transferee. Transferee must accept the terms and conditions of this Agreement, or TMC’s then-current edition of this Agreement, as a condition to the transfer.
- 2.2.6 This Agreement will terminate immediately if the Franchise Agreement terminates or expires for any reason. In addition, TMC may terminate this license upon notice for Franchisee’s failure to comply with any of the terms and conditions of this Agreement. Upon termination, Franchisee must immediately deliver to TMC the TMC Software, together with all copies, adaptations, and merged portions in any form.
- 2.2.7 Franchisee may not export or re-export the TMC Software or any copy or adaptation in violation of any applicable laws or regulations.
- 2.2.8 The TMC Software documentation has been developed entirely at private expense and is provided as “Commercial Computer Software” or “Restricted Computer Software”. The TMC Software is delivered and licensed as “Commercial

Computer Software” as defined in DFARS 252.227-7013 (OCT 1988), DFARS 252.211-7501 (MAY 1991) or DFARS 252.227-7014 (JUN 1995), as a “Commercial Item” as defined in FAR 2.101 (a), or as “Restricted Computer Software” as defined in FAR 52.227-19 JUN 1987) (or any equivalent agency regulation or contract clause), whichever is applicable. Franchisee has only those rights provided for such software and documentation by the applicable FAR or DFARS clause or this Agreement.

## **2.3 Support.**

- 2.3.1 During the term of this Agreement, TMC shall provide Franchisee, at no additional charge, copies of revised releases of the TMC Software (and related documentation) incorporating corrections, improvements, and enhancements to prior releases. Franchisee must install and use the revised release of the TMC Software within ninety (90) days of receipt. After one hundred twenty (120) days from the date TMC provides Franchisee with a revised release of the TMC Software, TMC may cease support for prior releases of the TMC Software.
- 2.3.2 All training on the TMC Software will be conducted under training programs provided for as part of the training contemplated in the Franchise Agreement.
- 2.3.3 TMC shall provide Franchisee with reasonable assistance and consultation to assist Franchisee in resolving problems that Franchisee may encounter in the authorized use of the TMC Software free of charge for a period of ninety (90) days from the date of this Agreement. Thereafter, reasonable ongoing support is included as a part of the services provided for in the monthly Software License Fee. However, development, consulting, and special projects will be considered premium services and shall be subject to TMC’s then prevailing time and materials charges, including reimbursement for all reasonable travel and living expenses incurred.

## **2.4 Warranty.**

- 2.4.1 The following is TMC’s Limited Software Warranty for the TMC Software:

### **LIMITED SOFTWARE WARRANTY**

TMC represents and warrants that upon delivery the TMC Software shall be free from significant programming errors and defects in workmanship and materials. Notwithstanding the foregoing sentence, and although care has gone into the development of the TMC Software, there is a possibility of error inherent in the production of work such as the TMC Software resulting from, among other things, statistical variability in certain estimating procedures and human factors involved in the compilation of the information. Therefore, except for TMC’s gross negligence or willful misconduct, TMC shall not be liable to Franchisee for, (i) the completeness, currentness, or accuracy of the information in data bases as provided as a part of or with the TMC Software, or (ii) for any loss or injury caused, in whole or in part, by its procuring, compiling, collecting, interpreting, communicating, or delivering of the information produced by the TMC Software. TMC does not

warrant that the TMC Software will be uninterrupted or error free. Except as provided above, (a) Franchisee hereby assumes all responsibility for the use of information contained in the system; (b) Franchisee assumes the entire cost for any damages resulting from the use of the information contained in the TMC Software; and (c) Franchisee assumes all responsibility for the selection of the information used with the TMC Software to achieve Franchisee's intended results, and for Franchisee's installation of, use of, and the results obtained from the TMC Software.

2.4.2 The following is TMC's Disclaimer and Limitation of Liability for Software:

### **DISCLAIMER AND LIMITATION OF LIABILITY**

In the event of TMC's breach of the Limited Warranty stated in Section 2.4.1 above, TMC's sole obligation and Franchisee's sole remedy, at TMC's option, shall be to (i) refund to Franchisee the Software License Fees paid to TMC by Franchisee for that portion of the term of this Agreement that the TMC Software failed to function properly, or (ii) repair or replace the TMC Software, or part thereof.

THE WARRANTY STATED ABOVE IS IN LIEU OF ALL OTHER WARRANTIES, AND TMC DOES NOT MAKE, AND FRANCHISEE DOES NOT RECEIVE, ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, AND TMC SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**2.5 Third Party Software.** Franchisee agrees to license from third parties the software identified on **Exhibit C** to this Agreement or from time to time designated by TMC (the "Third-Party Software"), and Franchisee agrees to pay to such third parties any license and maintenance fees or other costs charged by them for the use of such Third-Party Software. The Third-Party Software will be subject to and governed by the terms of the respective software license agreements between Franchisee and/or TMC and the third-party software providers. Franchisee agrees to promptly upgrade any Third-Party Software to such newer version or a different software solution as may be required by TMC from time to time.

### **2.6 Software Representations, Warranties, Covenants, and Indemnities.**

2.6.1 Franchisee's Representations and Warranties; Indemnification.

2.6.1.1 Franchisee agrees not to use as part of the Kangaroo Express Systems any additional software not designated by TMC without TMC's prior written consent.

2.6.1.2 Franchisee covenants that it will not knowingly violate any Federal, State or Local Law, Statute, Rule, Regulation and/or Ordinance in connection with its use of the TMC Software.

2.6.1.3 Franchisee shall indemnify and hold harmless, and at TMC's request, defend, TMC, its affiliates and their respective officers, directors,

employees, agents and representatives and successors and assigns from and against any and all claims, damages, liabilities, expenses (including reasonable attorney's fees and costs of litigation), losses, judgments, assessments of any kind whatsoever (collectively "Claims") arising out of (a) Franchisee's breach of this Agreement and (b) subject to Franchisor's obligations under Section 2.6.2 below, any and all Claims by any third parties arising out of or in any way related to Franchisee's use of the Equipment, TMC Software or Third-Party Software hereunder. TMC shall give Franchisee appropriate notice of any such Claims of which TMC becomes aware.

## 2.6.2 TMC Intellectual Property Indemnification

- 2.6.2.1 TMC shall defend, or at its option settle, and indemnify Franchisee from and against any and all Claims that Franchisee may incur on the direct infringement or alleged direct infringement of any United States copyright of a third party as a result of Franchisee's authorized exercise of a TMC Software license granted to Franchisee by TMC herein; provided, that, (i) Franchisee gives TMC prompt written notice of such Claim, (ii) Franchisee gives TMC full authority to defend or settle any such Claim, (iii) Franchisee gives TMC proper and full information and assistance, at TMC's reasonable expense (except for Franchisee's employees' time) to defend or settle any such Claim, and (iv) Franchisee is not in breach of this Agreement (including without limitation the use restrictions set forth herein). Should Franchisee desire to have its own counsel participate in any such Claim, the cost of such counsel shall be born exclusively by Franchisee. TMC shall not be responsible for any costs or expenses incurred without its prior written consent.
- 2.6.2.2 If there is a Claim made or threatened, TMC may, at its expense and option, either, (i) procure the right to continue using any part of the TMC Software, (ii) replace the TMC Software with non-infringing items that are substantially similar in functionality (iii) modify the TMC Software so that it is non-infringing, or (iv) refund the Software License Fees paid by Franchisee for the current term of this Agreement.
- 2.6.2.3 Notwithstanding the foregoing provisions of this Section 2.6.2, TMC assumes no liability for (i) infringements covering any Equipment or software, method or process in which the TMC Software may be used but not covered in the TMC Software when used alone, (ii) infringements involving the modifications or servicing of the TMC Software or any part thereof, unless done by TMC, or (iii) if Franchisee is in breach of this Agreement (including without limitation the use restrictions set forth herein) or is in material breach of the Franchise Agreement.
- 2.6.2.4 THE FOREGOING PROVISIONS OF THIS SECTION 2.6.2 STATE THE ENTIRE LIABILITIES AND OBLIGATIONS OF TMC AND THE EXCLUSIVE REMEDIES OF FRANCHISEE WITH RESPECT TO

ANY ALLEGED OR ACTUAL INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS BY THE TMC SOFTWARE ASSERTED BY A THIRD PARTY OR RELATED RIGHTS ARISING OUT OF THIS AGREEMENT.

**2.7 Limitation of Liability.**

EXCEPT FOR TMC'S OBLIGATION TO INDEMNIFY FRANCHISEE UNDER SECTION 2.6.2, TMC'S TOTAL LIABILITY TO FRANCHISEE ARISING OUT OF THIS AGREEMENT WILL NOT EXCEED THE TOTAL SOFTWARE LICENSE FEES PAID BY FRANCHISEE FOR THE PREVIOUS SIX MONTHS. IN NO EVENT SHALL TMC BE LIABLE FOR COSTS FOR THE PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF USE, LOSS OF DATA, INTERRUPTION OF BUSINESS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF THIS AGREEMENT, HOWEVER CAUSED, AND ANY THEORY OF LIABILITY. THE LIMITS SET FORTH IN THIS SECTION 2.7 WILL APPLY EVEN IF TMC HAS BEEN ADVISED OF, OR HAS ANY CAUSE TO KNOW OF, THE POSSIBILITY OF SUCH LOSS AND NOT WITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

**3. GENERAL PROVISIONS**

**3.1 Term.** This Agreement is effective as of the Effective Date of the Franchise Agreement (the "Effective Date"). The term of this Agreement will continue for the lesser of (i) ten (10) years and (ii) the date of termination or expiration of the Franchise Agreement. This Agreement may be renewed for a renewal term of duration equal to that of the Franchise Agreement.

**3.2 Termination.** If at any time during the term of this Agreement, there is a material breach of any of the terms hereof, the non-breaching party shall notify the other party of such breach. If the breach is not remedied within thirty (30) days of such notice, the non-breaching party may terminate this Agreement upon notice. If the breach is of a nature that it is not capable of cure within thirty (30) days, the breaching party shall be entitled to an additional period of not to exceed ninety (90) days to effectuate the cure; provided said party has commenced to cure and continuously and diligently proceeds to effectuate the cure.

**3.3 Return of Materials.** Upon expiration or termination of this Agreement for any reason, Franchisee shall return to TMC, or at TMC's request, destroy, all copies of the TMC Software in its possession together with all documentation and other materials delivered hereunder, including any updates hereof, and excerpts of and/or extracts from the system. At the time of such return or destruction, Franchisee shall deliver to TMC a certificate executed by an officer, general partner, or sole proprietor, as the case may be, attesting to the fact that all copies of, excerpts of, and extracts from the TMC Software in Franchisee's possession have been returned to TMC or destroyed as provided for hereunder.

**3.4 Governing Law and Jurisdiction.** This Agreement will be governed by and interpreted under the Laws of the State of Arizona without reference to conflict of laws principles.

**3.5 No Oral Modification.** No modification of this Agreement, or any waiver of any rights, will be effective unless consented to in writing by the party to be charged.

**3.6 No Waiver.** No waiver of any breach or default will constitute a waiver of any other right hereunder or any subsequent breach or default.

**3.7 Partial Invalidity.** If any provision of this Agreement is held to be invalid by any court of competent jurisdiction, then the remaining provisions shall nevertheless remain in full force and effect.

**3.8 Notices.** All notices required or permitted to be given under this Agreement to TMC will be in writing and will be made by overnight courier service, personal service upon an officer, or sent by prepaid registered or certified United States mail to any such officer of TMC, and will be deemed to have been duly given 24 hours after being sent by overnight courier service or five (5) days after being deposited in the United States mail for certified or registered delivery, addressed to TMC at 1130 West Warner Road, Tempe, Arizona 85284, Attention: Worldwide Franchising Group. All notices required or permitted to be given under this Agreement to Franchisee will be made by personal service upon Franchisee or, if applicable, an officer or director of Franchisee or sent by overnight courier service, personal service or prepaid registered or certified United States mail addressed to Franchisee at the Premises, or such other address as Franchisee may designate in writing. Notice delivered by a delivery service that requires a written receipt signed by the addressee will be deemed to have been personally served under this Agreement. TMC may provide notice or other information to Franchisee by electronic or telephonic means including by facsimile or through the Internet or other online means.

**3.9 Independent Contractors.** The relationship of the parties hereunder is that of independent contractors, and neither party is an employee, agent, partner, or joint venturer of the other.

**3.10 Uncontrollable Events.** Neither party shall be liable to the other party for any loss or damage or penalty resulting from acts of God or other causes beyond such party's reasonable control.

**3.11 Export Restrictions.** Franchisee agrees to comply with all export and re-export restrictions and regulations of the United States Department of Commerce or other United States agency or authority, and will not transfer or authorize the transfer of, the TMC Software or any part thereof to a prohibitive country or otherwise in violation of any restrictions and regulations of applicable laws.

**3.12 No Assignment.** Except if this Agreement is being transferred by Franchisee in connection with an authorized Transfer under the Franchise Agreement, Franchisee shall not assign its rights or obligations under this Agreement without the prior written consent of TMC, which may be withheld in TMC's sole and exclusive discretion. Any attempt to assignment in violation of the provisions of this section will be void. Franchisee agrees to give TMC not less than sixty (60) days' notice of any such purported request for assignment. Subject to the foregoing, the rights and liabilities the parties will bind and inure to the benefit of their respective successors or permitted assigns.

**3.13 Confidentiality.** Franchisee agrees that the terms and conditions of this Agreement are confidential, and that Franchisee may not disclose the contents of this Agreement without the prior

written consent of TMC, except as required by law after seeking any available confidential treatment.

**3.14 Section Headings, Counterparts, and Interpretations.** The section headings contained in this Agreement are inserted for reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. This Agreement has been negotiated by the parties and will be interpreted fairly in accordance with its terms and without any strict construction in favor of or against either party.

**3.15 Entire Agreement.** This Agreement and the attached Exhibits, which are incorporated herein by this reference, constitute the entire and exclusive statement of the terms and conditions relating to Franchisee's use of the Equipment and the TMC Software and supersedes all prior oral and written statements of any kind whatsoever made by the parties with respect thereto.

This Agreement is accepted and made effective as of the Effective Date.

**IN WITNESS WHEREOF** each party has caused this Agreement to be executed by its duly authorized representative.

**TMC:**  
**TMC FRANCHISE CORPORATION**

**FRANCHISEE**  
«ContractName»

By: \_\_\_\_\_  
Justin Shelton  
Asst. Secretary, TMC Franchise Corporation

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

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

Date \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**TMC Franchise Corporation**  
**Store System EPOS and Back Office System Components**  
**Store Internet Access Components**

**Exhibit A to Electronic Point of Sale and Software Agreement – Equipment**

Hardware

Two Integrated Point of Sale Register Systems (currently Verifone Commander or Radiant)
Two Pin Pads (Debit Card Processing)
Two Sales Counter Scanners
Hand-Held Scanning Unit (Grocery Order)
Hand-Held Scanning Unit (Mdse. Rec. & Inventory)
Pump Interface Module
Fuel Tank Monitor
Back Office PC with Standard Memory
Back Office PC Monitor
High-Speed Internet Connection
Multi-Function Back Office Printer (Reports/Labels)
8 Port Switching Hub
PC for Internet Access

**Exhibit B to Electronic Point of Sale and Software Agreement – TMC Software**

Software

CKFranchiseAccounting.com website access
TMCFranchise.com website access

**Exhibit C to Electronic Point of Sale and Software Agreement – Third Party Software – Franchisee Licensed**

Software

Integrated Point of Sale Register System (currently Verifone Commander or Radiant)
Back Office System Software (currently SSCS)
Price Book and Inventory System (currently SSCS)
FTP Client Software
Microsoft Office
Windows (or designated) Operating System
Operating System
Internet Web Browser
Internet Service

Exhibit 3 to Franchise Agreement

**ELECTRONIC FUNDS TRANSFER AUTHORIZATION**

\_\_\_\_\_ hereinafter called "We"  
("our" or "us"), located at \_\_\_\_\_ hereby  
authorize CIRCLE K STORES INC. hereinafter called "CIRCLE K" or "you", to initiate debit entries to our bank  
account number \_\_\_\_\_ at the depository named below, hereinafter called "Depository", which  
in turn shall debit the same to such account. These debit entries will be in the form of electronic debit.

**DEPOSITORY:**

INSTITUTION NAME: \_\_\_\_\_  
ABA#: \_\_\_\_\_  
Branch: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

You are hereby authorized, as a convenience to us, to debit and credit our account for drafts on our account by the WELLS FARGO BANK NA as agent for CIRCLE K with CIRCLE K as payee, provided there are sufficient collected funds in such account to pay the same upon presentation. This authorization will remain in effect until revoked by us in writing, and you actually receive such notice. I agree that you shall be fully protected in honoring any such draft.

This Authorization Agreement allows CIRCLE K to debit and credit this account at frequent intervals for varying amounts. It is acknowledged and accepted that: CIRCLE K may debit our account on or after the due date defined by the terms of our franchise agreement and other agreements with TMC Franchise Corporation; **there will be a \$50 charge for any draft returned unpaid by your depository.** By signing this form, we in no way relinquish any legal right to dispute any item. This authority is to remain in full force and effect until CIRCLE K and Depository have received written notification from us of our termination in such time and in such manner as to afford CIRCLE K and Depository a reasonable opportunity to act on it.

_____ <b>CUSTOMER NAME</b>	_____ <b>DATE</b>
_____ <b>AUTHORIZED NAME (PLEASE PRINT)</b>	_____ <b>EMAIL ADDRESS FOR EFT NOTICES</b>
_____ <b>AUTHORIZED SIGNATURE</b>	_____ <b>PHONE NUMBER</b>
_____ <b>TITLE</b>	_____ <b>COST CENTER NUMBER</b>

NOTE: PLEASE ATTACH A VOIDED CHECK FOR THE REFERENCED ACCOUNT IN ORDER TO ENSURE YOUR ACCOUNT IS PROPERLY AND ACCURATELY DEBITED.

Exhibit 4 to Franchise Agreement

**EQUIPMENT/CONSTRUCTION FUNDING AGREEMENT**

This Equipment/Construction Funding Agreement (the “Agreement”) is entered into by and between «ContractName» (“Franchisee”), and TMC Franchise Corporation, an Arizona corporation (“Franchisor”), effective as of the date this Agreement is signed by Franchisor (the “Effective Date”).

RECITALS

- A. Contemporaneously herewith, Franchisee and Franchisor are entering into a Kangaroo Express Franchise Agreement (together with all addenda, amendments and modifications thereto, the “Franchise Agreement”) pertaining to Site Number «Site\_Number», located at «Address1» «City», «State» «PostalCode» (the “Site”).
- B. Pursuant to Section 7.8 of the Franchise Agreement and in accordance with the parameters set forth on **Schedule A** hereto, Franchisor has offered and Franchisee now wishes to accept loans and other credit accommodations (each, a “Funding”) in an amount of not more than «Loan\_Amount» (the “Maximum Amount”), subject to the terms hereof.
- C. Franchisor and Franchisee acknowledge and agree that each Funding will be used by Franchisee to acquire, from Franchisor or approved third parties, certain pre-approved equipment, other personal property and fixtures, and construction at the Site, and to pay for related construction and other labor at the Site, and for other items approved by Franchisor, in each case incurred before the Open Date, as defined in the Franchise Agreement (“Permitted Purposes”).

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises of the parties and for value received, Franchisee and Franchisor agree as follows:

- 1. DEFINITIONS.** As used in this Agreement, terms defined in or pursuant to Article 9 of the UCC that are not otherwise defined herein shall have the meanings given them in or pursuant to Article 9 of the UCC. In addition:

“Amount Funded” means the aggregate amount of the Funding actually provided hereunder.

“Collateral” means all right, title and interest of Franchisee in and to accounts, chattel paper, documents, equipment, general intangibles, instruments, inventory, investment property, letter-of-credit rights and letters of credit, in each case whether Franchisor now has or hereafter acquires ownership or other rights therein, including but not limited to Financed Equipment Collateral.

“Financed Equipment Collateral” means all goods (i) sold by Franchisor to Franchisee at any time pursuant to this Agreement, or (ii) purchased by Franchisee in whole or in part with proceeds of any loan or advance by Franchisor to Franchisee pursuant to this Agreement, regardless of whether such proceeds are paid by Franchisor directly to a seller, by Franchisor to Franchisee to enable the purchase of such goods, by Franchisor to

Franchisee to replenish funds expended by Franchisee for such purchase, or otherwise, together with all additions, substitutions and replacements thereof, and all attachments, components, parts, and accessories and other goods installed thereon or affixed thereto or intended to be installed thereon or affixed thereto, in each case regardless of whether such goods constitute "purchase-money collateral" as defined in the UCC.

"Open Date" has the meaning specified in the Franchise Agreement.

"Outstanding Amount" means, at any time, the Amount Funded, less any prepayments pursuant to Section 3(c) and any reductions deemed to have occurred pursuant to Section 3(a).

"Royalty Fee" has the meaning specified in the Franchise Agreement.

"UCC" means the Uniform Commercial Code as adopted in the jurisdiction designated in the Franchise Agreement as the law governing the Franchise Agreement, or, as applicable, in any other state the laws of which are required to be applied in connection with the creation or perfection of security interests.

**2. FUNDING.** Franchisor shall designate, or Franchisee may from time to time request Fundings in accordance with this Agreement in such form as Franchisor may require. The decision as to whether to grant any such request shall be in the sole discretion of Franchisor. Without limiting Franchisor's discretion, Franchisee acknowledges that Franchisor does not intend to designate any Funding or honor any request for a Funding if (i) after honoring such request, the Amount Funded would exceed the Maximum Amount, (ii) the Franchise Agreement has terminated, or any event has occurred and is then continuing that would (or would, but for the passage of time, the giving of notice or both) permit Franchisor to terminate the Franchise Agreement, or (iii) the Fundings will not be used for Permitted Purposes. Franchisor may change the Maximum Amount at any time in its sole discretion based on Franchisor's verification of the square footage and/or gross sales of Franchisee's store. Without limiting the generality of the foregoing, Franchisor may reduce the Maximum Amount if, subsequent to the parties' execution of this Agreement but before the Open Date, the merchandise sales levels at the Store drop below the amount that Franchisor used to set the Maximum Amount. Franchisee shall use Fundings hereunder solely for Permitted Purposes. Franchisee acknowledges that Franchisor may, in its discretion, pay the proceeds of any Funding directly to the applicable suppliers and other payees intended to be paid with the proceeds of such Funding.

### **3. REDUCTIONS AND PAYMENT.**

(a) So long as the Site is open and operating in full compliance with the terms of the Franchise Agreement as of each such date and no event has occurred and is then continuing that would permit Franchisor to terminate the Franchise Agreement, the Outstanding Amount shall automatically be deemed reduced (i) on the day following the third anniversary of the Open Date, by an amount equal to 30% of the Amount Funded, and (ii) on the last day of each month thereafter until the Outstanding Amount has been reduced to \$0, by an amount equal to 1/120th of the Amount Funded (or, if less, the then-applicable Outstanding Amount).

(b) Upon termination of the Franchise Agreement before the tenth anniversary of the Open Date for any reason, including as a result of the sale of Franchisee's business to a third party, Franchisee shall repay to Franchisor the entire Outstanding Amount,

together with all Royalty Fees, Promotional Fees (each term as defined in the Franchise Agreement) and any other fees (including, without limitation, liquidated damages) due under the terms of the Franchise Agreement.

(c) Franchisee may at any time prepay Fundings in whole or in part. Any partial prepayment shall be applied to the deemed reductions of the Fundings hereunder in inverse order of maturity. No such prepayment shall reduce the amount of any Royalty Fees payable under the Franchise Agreement (including the rate at which such Royalty Fees are determined).

(d) Franchisee will pay when due or reimburse Franchisor on demand for all costs of collection of any of the obligations secured hereby and all other out-of-pocket expenses (including in each case all reasonable attorneys' fees) incurred by Franchisor in connection with the creation, perfection, satisfaction, protection, defense or enforcement of this Agreement or the security interest granted hereby, including expenses incurred in any litigation or bankruptcy or insolvency proceedings.

#### **4. SECURITY INTEREST.**

(a) To secure the payment of all debts, liabilities and obligations now or hereafter owing by Franchisee to Franchisor, whether under this Agreement or otherwise, whether such debt, liability or obligation now exists or is hereafter created or incurred and whether it is or may be direct or indirect, due or to become due, or absolute or contingent, Franchisee grants to Franchisor a security interest in the Collateral. For avoidance of doubt, Franchisor has the right to file financing statements to evidence such security interest, in accordance with the UCC, and Franchisee authorizes, ratifies and approves any financing statement filed by Franchisor on or prior to the date of this Agreement. Without limiting the generality of the foregoing, Franchisee authorizes Franchisor to file one or more financing statements designating the Collateral as "all assets" of Franchisee or using any comparable or less comprehensive description.

(b) Franchisee, at its own cost and expense, shall (i) maintain the Collateral in good repair and operating condition, (ii) replace any Collateral that is stolen, lost, destroyed or damaged beyond repair, which replacement Collateral shall become property of Franchisor, (iii) replace any parts of the Collateral which become worn out, lost, destroyed or damaged, which replacement parts shall become property of Franchisor, (iv) file the necessary tax returns and pay any property taxes associated with the Collateral, and (v) obtain insurance coverage for the Collateral as required by the insurance requirements of the Franchise Agreement. Franchisee shall not sell or otherwise dispose of any Collateral or any interest therein, or grant or suffer to exist any security interest or other lien thereon, other than the security interest granted hereunder, without the prior written consent of Franchisor, except that, until the occurrence of a default in the performance of any debt, liability or obligation secured hereby and the revocation by Franchisor of Franchisee's right to do so, Franchisee may sell any inventory constituting Collateral to buyers in the ordinary course of business.

(c) Franchisee shall from time to time execute and deliver such further assignments, control agreements and other documents (including but not limited to control agreements, original notes and other evidence of obligations owing to Franchisee, and documents for filing in applicable real estate records) as Franchisor reasonably requests to evidence, perfect or otherwise protect the security interest granted hereunder.

**5. NO WARRANTIES.** FRANCHISOR DOES NOT MAKE ANY EXPRESS OR IMPLIED WARRANTY OR REPRESENTATION OF ANY KIND REGARDING ANY GOODS OR SERVICES PURCHASED WITH THE FUNDED AMOUNT, WHETHER OR NOT PROVIDED BY OR SOLD THROUGH FRANCHISOR, AND FRANCHISOR SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. AS BETWEEN FRANCHISEE AND FRANCHISOR, FRANCHISEE AGREES TO ACCEPT ALL SUCH GOODS AND SERVICES WITHOUT ANY REPRESENTATION OR WARRANTY AND ON AN “AS-IS, WHERE-IS” BASIS.

**6. LIMITATION OF REMEDIES.** IN NO EVENT SHALL FRANCHISOR BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SIMILAR DAMAGES OF ANY KIND ARISING UNDER OR IN ANY WAY RELATED TO THIS AGREEMENT, WHETHER FOR BREACH OF ANY WARRANTY, FOR BREACH OR REPUDIATION OF ANY OTHER TERM OR CONDITION OF THIS AGREEMENT, FOR NEGLIGENCE, ON THE BASIS OF STRICT LIABILITY, OR OTHERWISE.

**7. GOVERNING LAW/DISPUTE RESOLUTION.** Franchisee and Franchisor acknowledge and agree that the choice of law and dispute resolution provisions contained in the Franchise Agreement will govern any disputes arising out of or relating to this Agreement. As such, the choice of law and dispute resolution provisions contained in the Franchise Agreement are incorporated herein by reference.

**8. NOTICES.** Any notice to Franchisee under this Agreement shall be to the Site address or such other address as may be designated by Franchisee in writing and shall be deemed to have been given on the date delivered in the case of personal delivery or, if mailed, one day after deposited in first class or certified mail. Notices to Franchisor shall be to: TMC Franchise Corporation, 1130 West Warner Road, Tempe, AZ 85284, or such other address as may be designated by Franchisor in writing.

**9. MODIFICATION/ SEVERABILITY.** No supplement, modification, assignment or amendment to this Agreement shall be binding unless executed in writing by both parties. The provisions of this Agreement shall be severable if any provision hereof is held by a court or arbitrator of competent jurisdiction to be invalid, void or otherwise unenforceable, and the remaining provisions shall remain enforceable to the fullest extent permitted by law.

**10. REPRESENTATIONS AND WARRANTIES.** The parties executing this Agreement represent and warrant that they have full authority to bind and enter into this Agreement and fully perform the obligations set forth herein.

**11. SUCCESSORS AND ASSIGNS.** The terms of this Agreement shall inure to the benefit of and shall be binding upon the successors and permitted assigns of Franchisee and Franchisor. Franchisee may not assign this Agreement (by operation of law, via a change of control transaction or otherwise) without the prior written consent of Franchisor. Notwithstanding the foregoing, if Franchisor permits Franchisee to assign the unamortized portion of the Amount Funded, and this Agreement, to a purchaser of Franchisee’s business, Franchisee shall remain bound by all the terms and conditions of this Agreement and shall be liable for all obligations under this Agreement if the purchaser/assignee fails to fulfill its obligations hereunder.

IN WITNESS WHEREOF, Franchisee and Franchisor hereby executed this Agreement as of the Effective Date:

**FRANCHISOR:**  
TMC Franchise Corporation

**Signature:** \_\_\_\_\_  
Justin Shelton, Asst. Secretary

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

**FRANCHISEE:**  
«ContractName»

**Signature:** \_\_\_\_\_

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

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

**Signature:** \_\_\_\_\_

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

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

**Signature:** \_\_\_\_\_

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

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

Schedule A to Equipment/Construction Funding Agreement

For a newly constructed Kangaroo Express Store and raze and rebuilds, two levels of funding are available, which, for purposes of the calculation of the Royalty Fees are referred to as “Level 2” funding amount and “Level 3” funding amount. The “Level 2” Maximum Amount is up to \$50 for each square foot of selling space the Store contains. The “Level 3” Maximum Amount is up to \$70 for each square foot of selling space the Kangaroo Express Store contains. Franchisor will determine the square footage of the Kangaroo Express Store to establish the Maximum Amount.

For bay conversions, store re-openings, store expansion projects, or conversions where Franchisor cannot adequately verify existing sales levels, two levels of funding are available, which, for purposes of the calculation of the Royalty Fees are referred to as “Level 2” funding and “Level 3” funding. The “Level 2” Maximum Amount is up to \$40 for each square foot of selling space the Kangaroo Express Store contains, capped at \$90,000. The “Level 3” Maximum Amount is up to \$60 for each square foot of selling space the Kangaroo Express Store contains, capped at \$135,000. Franchisor has the right to determine the square footage to establish the Maximum Amount.

For a Conversion Store, the Maximum Amount is based on the verified annual amount of the Conversion Store’s Gross Sales for the most recently completed 12-month period as determined by Franchisee and Franchisor. If the Conversion Store’s tobacco sales as a percentage of the total sales are substantially over the average for such percentage, the funding may be altered. Otherwise, the Maximum Amount for Conversion Stores is as follows:

“Level 1 Funding” for Existing C-Store:

<b>Average Gross Sales (last 12 months)</b>	<b>Maximum Amount Available</b>
\$50,000 or less	Up to 0.5 times Gross Sales
\$50,001 to \$75,000	Up to 0.6 times Gross Sales
\$75,001 to \$100,000	Up to 0.7 times Gross Sales
\$100,000+	Up to 0.75 times Gross Sales

“Level 2 Funding” for Existing C-Store:

<b>Average Gross Sales (last 12 months)</b>	<b>Maximum Amount Available</b>
\$50,000 or less	Up to 1.0 times Gross Sales
\$50,001 to \$75,000	Up to 1.2 times Gross Sales
\$75,001 to \$100,000	Up to 1.4 times Gross Sales
\$100,000+	Up to 1.5 times Gross Sales

“Level 3 Funding” for Existing C-Store:

<b>Average Gross Sales (last 12 months)</b>	<b>Maximum Amount Available</b>
\$50,000 or less	Up to 1.4 times Gross Sales
\$50,001 to \$75,000	Up to 1.6 times Gross Sales
\$75,001 to \$100,000	Up to 1.8 times Gross Sales
\$100,000+	Up to 1.9 times Gross Sales

Exhibit 5 to Franchise Agreement

**PERSONAL GUARANTY**

[Attached as Exhibit K to this Franchise Disclosure Document]

## Exhibit 6 to Franchise Agreement

### **CREDIT NETWORK AGREEMENT**

This Credit Network Agreement (the “Agreement”) is made and entered into as of the Effective Date (as set forth on the signature page hereto) and is by and between TMC Franchise Corporation (“TMC”) and \_\_\_\_\_ (“Purchaser”). All capitalized terms not defined in this Agreement will have the meanings ascribed to them in the Underlying Agreement (defined below).

1. **TMC’s Credit Card Program.** Purchaser agrees to participate fully in and comply with the terms and conditions of TMC’s program regarding acceptance and processing of payments in connection with customer purchases of products and services of the Kangaroo Express® Business using credit cards, debit cards, stored value cards and all other types of transaction payment cards that have been approved by TMC or its affiliates from time to time, as such program may be modified from time to time by TMC or its affiliates (the “Credit Card Program”). For the purposes of this Agreement, the terms “credit card” or “credit cards” will mean and include, where applicable, the credit cards, debit cards, stored value cards and all other types of transaction payment cards that have been approved by TMC or its affiliates from time to time under the Credit Card Program. Purchaser will immediately forward all customer applications for Kangaroo Express®-branded credit cards to TMC for approval and card issuance by TMC or its designee (“Kangaroo Express® credit cards”). The termination or expiration of this Agreement will automatically terminate all rights of Purchaser with respect to any Credit Card Program, including without limitation, all rights of Purchaser to process credit card charges with TMC or its affiliates. Purchaser’s participation in any Credit Card Program will be subject to all of the terms and conditions established from time to time by TMC or its affiliates. Purchaser shall accept all credit cards designated by TMC and will, in addition to the terms and conditions contained in this Agreement, be fully subject to and will comply with all card agreements in force between TMC or its affiliates and VISA, MasterCard, American Express, other card issuers and/or any bank, and these card agreements are expressly incorporated herein by reference. Purchaser shall not discriminate in any manner against Kangaroo Express® credit card holders as opposed to the holders of any other credit card, such as bank credit cards, that Purchaser is authorized to accept. As used herein the term “Kangaroo Express Business” means all business conducted at the Premises (as defined below) under the Kangaroo Express® trademarks and business system.

2. **Term.** This Agreement shall be effective commencing on the Effective Date and, except as set forth in paragraph 6 below, shall remain in effect for the same term (including any extensions thereof) as (a) the Kangaroo Express® Franchise Agreement between TMC and Purchaser for the operation of the Kangaroo Express Business at the Premises, if no motor fuel is offered for sale to the public at the Premises (as defined below) or (b) the Kangaroo Express® Motor Fuel Agreement or Kangaroo Express® Branding Agreement between TMC and Purchaser (as applicable, between TMC and Purchaser, for the sale of Kangaroo Express-branded motor fuel at the Premises. The Franchise Agreement, the Motor Fuel Agreement or the Branding Agreement pursuant to which this Agreement was executed by the parties shall be referred to herein as the “Underlying Agreement.”

3. **Purchase and Use of Equipment; Network Fee.**

(a) Purchaser shall purchase the approved credit and debit card electronic credit authorization terminals and related peripheral equipment (the “Equipment”) from TMC or its designee and shall pay for the installation of the credit authorization terminals, by an installer selected by TMC, at the Premises. The Equipment will be sold to Purchaser at the prices and on the terms established by TMC or its designee from time to time. Within 30 days after receiving written notice from TMC, Purchaser shall install all updated credit and debit card equipment for the Kangaroo Express® Credit Card Program specified by TMC in writing. As part of the Equipment, TMC may provide Purchaser with certain proprietary or third-party software or firmware and access to TMC’s network (the “TMC Network”). Purchaser understands and agrees that, in connection with its use of the Equipment and the TMC Network, Purchaser must comply with TMC’s instructions and guidelines from time to time communicated to Purchaser hereunder, whether communicated in written or electronic form (such guidelines and instructions referred to collectively as the “Card Guide”), and failure by Purchaser to comply with the Card Guide constitutes a default under this Agreement.

(b) Purchaser understands that the Equipment may include software that is proprietary to TMC or a designated third-party supplier, and Purchaser has no right, title, or ownership interest in such software and agrees that it will neither attempt to copy, modify, reverse engineer, decompile, disassemble or otherwise attempt to derive

the source code of such software, nor will Purchaser attempt to place any lien or other encumbrance on or sell any such Equipment. Any lien, other encumbrance or sale by Purchaser of any such Equipment shall be void.

(c) TMC MAKES NO EXPRESS OR IMPLIED WARRANTIES AS TO THE CAPABILITY, EFFICIENCY, PERFORMANCE, OR FITNESS FOR PARTICULAR PURPOSE OF THE TMC NETWORK, THE SALES TRANSACTION AUTHORIZATION SERVICE, CONNECTION TO THE TMC NETWORK, ITS SALES TRANSACTION DATA CAPTURE SERVICE OR ANY CREDIT/DEBIT EQUIPMENT PROVIDED HEREUNDER, IF ANY. TMC WILL NOT BE LIABLE TO PURCHASER IN CONTRACT OR IN TORT FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, ARISING OUT OF THIS AGREEMENT. TMC will not be responsible in any way for, or have any liability arising out of the use of, any equipment including, without limitation, terminals, supplies or peripheral equipment that Purchaser purchases, leases or otherwise acquires as part of its obligations hereunder.

(d) TMC reserves the right to make any changes or modifications in the TMC Network or the method by which Purchaser is provided access to the TMC Network, and Purchaser agrees to permit TMC to alter any Equipment to accommodate such changes or modifications, at Purchaser's expense.

(e) Purchaser must pay TMC the then-current service fee for access to and use of the TMC Network and Equipment that TMC provides, if any, in the current amount of \$50 per month ("Network Fee"), payable in advance on the 25<sup>th</sup> day of each month. The Network Fee may be adjusted by TMC from time to time on thirty (30) days' prior written notice to Purchaser. The Network Fee covers support for such costs as the broadband connection, the virtual private network (VPN), the router and Local Area Network (LAN) switch, Purchaser's broadband internet service and backup broadband connection. The LAN switch must be for the sole use of the EPOS terminals. TMC will order and install the broadband connection in accordance with TMC's Wide Area Network (WAN) standards and provisions.

In addition to the Network Fee, Purchaser shall pay to, or reimburse, TMC for all taxes, fees, duties, or other governmental levies or charges that are now imposed, or may hereafter be imposed, on or with respect to any services provided by TMC under this Agreement.

4. Assignment of Credit Card Charges; Processing and Per-Transaction Fees. Purchaser agrees to assign, and TMC, or TMC's designee, agrees to purchase from Purchaser, the credit card sales invoices and the underlying credit card sales accounts for all Kangaroo Express® credit card charges and other approved credit card charges made by cardholders at the Premises for 100% of the total dollar amount shown on the face of the credit card sales invoices that have been prepared and submitted to TMC or its designee in accordance with the terms and conditions of this Agreement. TMC will credit Purchaser's trade account with TMC for the amount of the payment due to Purchaser for the purchase of credit card sales invoices and the underlying credit card sales accounts by TMC. Purchaser will submit to TMC or its designee the original copies of all credit card sales invoices except as otherwise directed by TMC. It is understood that there will not be a merchant copy of "pay at the pump" credit card transactions or for transactions under certain dollar amounts specified from time to time by TMC. TMC will also purchase and accept assignments by Purchaser of retail credit card sales invoices from the cardholders of VISA, MasterCard, American Express, and the other credit cards approved by TMC in writing.

Purchaser will pay to TMC or its designee a processing fee and/or per-transaction fee, in the amount and in the manner established by TMC or its designee from time to time. The current amounts of the processing fees and per-transaction fees are set forth in the Franchise Disclosure Document delivered to Purchaser in connection with entering into the Underlying Agreement. TMC reserves the right to change the fee amounts upon 30 days' prior written notice. TMC reserves the right to deduct any processing fees and per-transaction fees from the credit card sales invoice amounts purchased by TMC hereunder. TMC also reserves the right to replace the TMC Network with a substitute network and charge fees for Purchaser's access to and use of such substitute network. Any such substitute network will be considered TMC Network for purposes of this Agreement.

5. Purchaser's Representations, Warranties and Covenants. With respect to each credit card invoice purchased by TMC or its designee hereunder, Purchaser represents and warrants that Purchaser has no knowledge that (a) the signature on the credit card sales invoice is unauthorized, (b) the credit card used by the cardholder is not genuine, (c) the credit card sales invoice was altered subsequent to its signature, (d) any portions of the credit card sales invoice completed by Purchaser, its employees or agents were completed fraudulently or incorrectly, (e) the credit card used by the cardholder was unauthorized or canceled, (f) the credit card used by the cardholder or the credit

card user was not authorized, or (g) the credit card was used by the cardholder at a business other than the Premises. Purchaser agrees to keep secure and protect from disclosure all card transaction data in accordance with then-current data security and privacy legal requirements, data security and privacy requirements of TMC and the terms of this Agreement.

6. Purchaser's Obligations to Repurchase Credit Card Invoices. Purchaser shall repurchase from TMC or its designee 100% of the total dollar amount shown on the face of any credit card sales invoice that has been purchased from Purchaser by TMC or its designee where Purchaser (a) completes a transaction on any credit card whose account number is listed as unauthorized for use by the electronic credit card authorization system required by TMC to be used at the Kangaroo Express Business or in any written notice sent to Purchaser, (b) completes a transaction subsequent to the expiration date noted on the face of the cardholder's credit card, (c) completes the transaction when the signature (if required by the card issuer and whether captured physically or electronically) on the credit card sales invoice appears to be dissimilar to the signature appearing on the credit card (which signature may, but need not be, the name embossed on the credit card), (d) fails to deliver to the cardholder a true and complete copy of the credit card sales invoice at the time of the transaction, (e) fails to legibly show on any credit card sales invoice, the name of the cardholder (if required by the card issuer and whether captured physically or electronically), the transaction date, the description of the goods or services sold, the total amount of the charge sale, including all state and federal taxes, the signature of the cardholder, and the credit authorization system approval number, (f) is in default or otherwise violates any term or condition of this Agreement, (g) is advised or aware that the cardholder disputes liability for the purchase evidenced by the credit card sales invoice, (h) has been informed that the goods or services covered by the credit card sales invoice are claimed to be defective or returned, (i) completes a transaction on a credit card that was not authorized by the credit authorization system, (j) does not provide TMC with a copy of the credit card sales invoice (whether captured physically or electronically) within three days after the date of the credit card transaction, (k) fails to obtain the authorizations required by TMC to approve the transaction with the cardholder, including the failure to obtain a verbal telephonic authorization when prompted by the electronic credit card authorization system, (l) fails to comply with any Card Guide, and (m) any other instance where payment is refused or reversed by the card issuer for any reason.

For each transaction subject to Purchaser's repurchase hereunder, TMC may either charge the applicable amount owed to Purchaser's account or require Purchaser to make immediate refund to TMC, in the manner specified by TMC, without any deduction for any transaction and/or processing fees. Any credit card transactions that are charged back to Purchaser pursuant to this Section will be the sole responsibility of Purchaser.

7. Termination of Credit Card Program. TMC shall have the right to terminate the Credit Card Program, and all related agreements, by giving Purchaser 48 hours' prior written notice, and TMC may, at any time and with or without cause, terminate the Kangaroo Express® credit card privileges of Purchaser without terminating this Agreement or any other agreement between TMC and Purchaser. In the event of termination of this Agreement or Purchaser's right to participate in the Credit Card Program, TMC or its designee will continue to purchase credit card sales invoices from Purchaser for a period of 10 days following termination; provided the credit card sales invoices submitted by Purchaser are for transactions at the Premises that occurred prior to the date of termination and otherwise comply with the terms of this Agreement. For avoidance of doubt, Purchaser's repurchase obligations set forth herein will also continue beyond the date of termination. Termination of this Agreement or the Credit Card Program will not affect the rights or obligations of either party under this Agreement that may have arisen or accrued prior to the date of termination.

8. Indemnification. Purchaser shall indemnify, defend and hold TMC and its affiliates harmless from and against any and all losses, liabilities, damages, costs, expenses and claims arising out of or related to (i) the use of the TMC Network or the Equipment, or (ii) Purchaser's failure to comply with the terms of this Agreement, including without limitation, any Credit Card Program.

9. Termination.

- (a) This Agreement shall terminate immediately if any of the following occurs:
  - (i) the termination, expiration or nonrenewal of the Underlying Agreement;
  - (ii) Purchaser defaults in the performance of its obligations under this Agreement (including, without limitation any Credit Card Program or Card Guide) and fails

to cure such default within ten (10) days following written notice from TMC of such default;

- (iii) TMC gives Purchaser 48 hours' prior written notice of the termination of this Agreement or the Credit Card Program; or
- (iv) TMC discontinues operation of the TMC Network and does not designate a substitute network.

(b) Upon the termination of this Agreement, TMC may remove, or caused to be removed any TMC or third-party Equipment provided to Purchaser hereunder. In such event, Purchaser grants to TMC and its agents or contractors unimpeded access to the Premises to remove any such Equipment.

(c) Upon termination, Purchaser shall immediately pay, as fair and reasonable liquidated damages ("Liquidated Damages"), an amount equal to the lesser of (i) 48 or (ii) the remaining number of months under the term of this Agreement, multiplied by \$3,000. Purchaser and TMC acknowledge and agree that the termination of this Agreement will result in TMC incurring damages based on lost revenues from fees and other amounts payable by Purchaser hereunder, and that it will be difficult to calculate with certainty the amount of damages TMC will incur. The provisions of this Section 9(c) do not apply if the Agreement expires at the end of its initial term or is terminated due to (i) Purchaser's (or if Purchaser is an entity, the principal equity holder's) death; (ii) Purchaser's (or if Purchaser is an entity, the principal equity holder's) incapacity for at least 90 consecutive days, in either case which event results in Purchaser's (or if Purchaser is an entity, the principal equity holder's) inability to personally operate its Kangaroo Express Business; (iii) condemnation or other taking, in whole or in part, of the Premises due to eminent domain; (iv) destruction of all or a substantial part of the Kangaroo Express Business or the Premises through no fault of Purchaser; or (v) a determination made by TMC in good faith and in the normal course of business to withdraw from marketing in the geographical area in which the Kangaroo Express Business is located. Notwithstanding the foregoing, if a court determines that the payment under this Section 9(c) is unenforceable, then TMC may pursue all other available remedies, including consequential damages to the extent proved.

10. Data Security and Privacy Requirements. Throughout the term of this Agreement, Purchaser shall comply with the payment card industry ("PCI") data security standards, as established from time to time by the Payment Card Industry Security Standards Council or another industry-recognized regulatory agency or organization, all legal requirements regarding data security and privacy and any data security and privacy requirements imposed from time to time by TMC or its affiliates. Without limiting the foregoing, Purchaser agrees to meet PCI requirements for storing, accessing and transmitting cardholder data, and agrees to fully participate at TMC's request in any PCI data security standard compliance audits conducted by or on behalf of TMC or its affiliate. Additionally, Purchaser agrees to not install or connect any non-TMC approved computer systems or services, including but not limited to wireless systems and internet access, onto TMC Network, without the prior written approval of TMC.

Purchaser is solely responsible and liable for cardholder data in Purchaser's possession and/or control, whether in paper or electronic form. Purchaser must notify TMC immediately of any known or suspected information security compromise, specifically, but not limited to, one that may impact cardholder data. Purchaser shall fully cooperate with and provide access to a PCI representative, or PCI-approved third party, for purposes of conducting a security review after a data security intrusion or breach has been detected. Purchaser will pay, and will indemnify, defend and hold harmless TMC and its affiliates from and against any and all fines, penalties, expenses, liabilities, losses, claims, damages and costs (including costs of data breach notification) associated with any data security breach caused by or arising out of Purchaser's failure to secure cardholder data or to maintain full compliance with PCI standards and the terms of this Agreement.

11. Records. Purchaser will maintain, and TMC or its designee will have the right to examine, all records, reports and other forms that TMC may request relating to Purchaser's participation in any Credit Card Program. Without limiting the foregoing, Purchaser shall maintain a record of each sales transaction (including the actual draft generated by the sale) for a period of no less than six (6) months from the date of the transaction.

12. Miscellaneous.

(a) Assignment. Purchaser shall not assign its interest in this Agreement, directly or indirectly, without the prior written consent of TMC, which consent shall not be unreasonably withheld. Any assignment or

transfer of Purchaser's interest in this Agreement without such prior written consent shall be null and void and of no effect.

(b) Amendment/Modification. This Agreement (together with the EPOS Agreement) cancels and supersedes all prior written and unwritten agreements, attachments, schedules, appendices, amendments, promises, and understandings between the parties pertaining to the matters covered under this Agreement and is a final, complete and exclusive statement of the agreement between the parties hereto. THERE ARE NO ORAL UNDERSTANDINGS, REPRESENTATIONS OR WARRANTIES AFFECTING IT. No amendment, deletion, modification, or alteration to this Agreement shall have any effect unless and until made in writing and signed by an authorized representative of TMC.

(c) No Third-Party Beneficiary. Nothing contained in this Agreement shall be deemed, interpreted, or construed to create, or express any intent to create, third party beneficiary rights in favor of any person or entity, except for any indemnified party (or other person entitled to be indemnified pursuant to this Agreement), and TMC and Purchaser specifically state and agree that no such intent exists.

(d) Waiver of Liability. TMC shall not be responsible for or liable to Purchaser for any loss or damages due to down-time of the TMC Network, the Equipment or any terminals or associated equipment because of repair or maintenance or due to failure of any connection of the terminals or equipment associated with the TMC Network.

(e) Notices. All written notices required or permitted to be given by this Agreement shall be deemed to be duly given if delivered personally or sent by certified, or overnight mail via a reputable national carrier, to the other party at the address set forth above or to such other address as may be furnished by either party to the other in writing in accordance with the provisions of this paragraph. The date of mailing shall be deemed the date of giving such notice, except for notice of change of address, which must be received to be effective.

(f) Attorneys' Fees. It is hereby agreed to and understood by the parties to this Agreement that TMC shall be entitled to recover from Purchaser all reasonable attorneys' fees and other legal costs incurred by TMC to secure or protect its rights under this Agreement or to enforce the terms thereof, whether at law or in equity.

**TMC:**

**PURCHASER:**

TMC FRANCHISE CORPORATION

\_\_\_\_\_

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

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

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

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

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

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

**EXHIBIT G**

Multiple Site Operator Agreement

## MULTIPLE SITE OPERATOR AGREEMENT

THIS MULTIPLE SITE OPERATOR AGREEMENT (the “Agreement”) is made effective as of the date this Agreement is signed by Licensor, and is entered into by and between TMC Franchise Corporation, an Arizona corporation (“Licensor”), and \_\_\_\_\_ a \_\_\_\_\_ (“Multi-Site Operator”).

### RECITALS

A. Circle K Stores Inc., a Texas corporation (“Parent”), and Licensor have created and developed an efficient and distinctive retail system (the “System”) for operating, maintaining, marketing and selling grocery items, consumer goods, and other products at convenience stores under the name “Kangaroo Express” and other distinctive marks, designs, specifications, slogans, logos, and all associated goodwill (the “Marks”).

B. Licensor has received from Parent the right to license the System and the Marks to selected persons or entities (who will comply with Licensor’s uniformity requirements and quality standards) for the operation of convenience stores.

C. Licensor grants to certain qualified persons or entities licenses to own and operate multiple Kangaroo Express convenience stores providing products and services authorized and approved by Licensor and utilizing the System and Marks (each, a “Store”).

D. Multi-Site Operator wishes to commit to develop at least six Stores, through one or a combination of the following methods: (i) Multi-Site Operator owns and operates existing convenience stores and desires to convert and operate those stores under the Marks and System and wishes to obtain licenses from Licensor for that purpose, and/or (ii) Multi-Site Operator wishes to obtain a license to develop and operate multiple new Kangaroo Express Stores, in each case pursuant to the terms hereof.

NOW, THEREFORE, in consideration of the covenants and promises contained herein, the sufficiency of which is hereby acknowledged by each of the parties, Licensor and Multi-Site Operator hereby agree as follows:

### ARTICLE 1 LICENSE GRANTED

1.1 License. Licensor hereby grants to Multi-Site Operator, or its affiliate, pursuant to the terms and conditions of this Agreement, the right to enter into franchise agreements (each, a “Franchise Agreement”) with Licensor granting to Multi-Site Operator (or its affiliate) the right to (a) convert its existing convenience stores to Kangaroo Express Stores and thereafter own and operate those Stores in conformity with the System at the Franchised Locations defined in Exhibit 1 and/or (b) develop and operate multiple new Kangaroo Express Stores in conformity with the System at the Franchised Locations defined on Exhibit 1 or to be approved by Licensor. Multi-Site Operator may not franchise or sub-franchise its rights under this Agreement. Each Store franchised hereunder will be established and operated pursuant to a Franchise Agreement in the same form as attached hereto as Exhibit 2 to be entered into between Licensor and Multi-Site Operator or its affiliate. Each such Franchise Agreement will be modified pursuant to the Amendment To Kangaroo Express® Franchise Agreement For Multi-Site Operators, attached hereto as Exhibit 3, which shall be executed by the parties simultaneously herewith. This Agreement is not a Franchise Agreement, and Multi-Site Operator will have no right to use the Marks in any manner by virtue hereof.

1.2 Rights Reserved to Licensor. The rights granted to Multi-Site Operator under this Agreement are limited to the right to develop and operate Kangaroo Express Stores at the Franchised Locations only, and do not include (i) any right to sell products or merchandise identified by the Marks at any location or through any other channels or methods of distribution, including the internet (or any other existing or future form of electronic commerce), other than at Kangaroo Express Stores at the Franchised Locations pursuant to the terms of the Franchise Agreements, (ii) any right to sell products or merchandise identified by the Marks to any person or entity for resale or further distribution, or (iii) any right to exclude, control or impose conditions on Licensor's development or operation of franchised, company or affiliate owned stores at any time or at any location other than the Franchised Locations.

Multi-Site Operator acknowledges and agrees that (i) Licensor and its affiliates have the right outside of the Franchised Locations to grant other franchises or operate company or affiliate owned Kangaroo Express stores and offer, sell or distribute any products or merchandise associated with the System (now or in the future) under the Marks or any other trademarks, service marks or trade names or through any distribution channel or method, all without compensation to any developer or licensee; and (ii) Licensor and its affiliates have the right to operate and franchise others to operate convenience stores or any other business outside the Franchised Locations under the Kangaroo Express Marks or any other trademarks, without compensation to Multi-Site Operator.

ARTICLE 2  
INITIAL FRANCHISE FEE; MINIMUM DEVELOPMENT SCHEDULE

2.1 Initial Franchise Fee. Multi-Site Operator will pay to Licensor an Initial Franchise Fee of \$5,000 for each Store Multi-Site Operator agrees to develop or convert. The Initial Franchise Fee will be due and payable to Licensor on the date that Multi-Site Operator executes this Agreement. If Multi-Site Operator is permitted to develop/convert more Stores than the number specified in the Minimum Development Schedule (set forth below) and develops/converts any such additional Stores, Multi-Site Operator will be required to pay an Initial Franchise Fee for each such additional Store (in the amount set forth in the table above) upon the signing of the Franchise Agreement for each such additional Store.

2.2 Minimum Development Schedule. Multi-Site Operator acknowledges and agrees that time is of the essence and that a material provision of this Agreement is that the following number of Stores must be opened and in operation during the term of this Agreement in accordance with the Minimum Development Schedule set forth below. Multi-Site Operator's failure to comply with the Minimum Development Schedule is a material breach of this Agreement and Licensor will have the right to exercise all remedies available to it including but not limited to terminating this Agreement as provided in Article 6.

<u>Period</u>	<u>Number of New Stores Required to be Converted or Developed By End of Year</u>	<u>Number of Stores to be Continuously Operating Throughout Period</u>
Year 1		
Year 2		
Year 3		
Year 4 and thereafter		

Each year period will be determined from the date of this Agreement so that the first year of the Minimum Development Schedule set forth above will be twelve months' period from the date of this Agreement.

ARTICLE 3  
TERM

3.1. Expiration. Unless sooner terminated as provided herein, the term of this Agreement and all rights granted hereunder to Multi-Site Operator shall expire on the date of Licensor's acceptance and execution of a Franchise Agreement for the last Kangaroo Express Store to be established pursuant to the Minimum Development Schedule.

3.2. No Renewal Rights; Additional Options. Multi-Site Operator will have no right to renew its development or conversion rights under this Agreement. If, however, Multi-Site Operator wants to develop additional Kangaroo Express Stores beyond those required under the Minimum Development Schedule, Licensor and Multi-Site Operator must mutually agree in writing to the terms and conditions of any additional development.

ARTICLE 4  
OBLIGATIONS OF MULTI-SITE OPERATOR

4.1. Conversion of Sites. Multi-Site Operator will assume all costs, liability, expenses, and responsibility for converting its existing convenience stores and sites to Kangaroo Express Stores and/or for developing new Kangaroo Express Stores. Multi-Site Operator will construct or renovate and thereafter operate each Store in accordance with the terms and conditions of the Franchise Agreement for the Store.

4.2. Personnel. Multi-Site Operator must employ an adequate number of employees to supervise Multi-Site Operator's Stores and to otherwise comply with this Agreement. The Multi-Site Operator's supervisors will be responsible for the operation and administration of the Stores under their supervision and control, including the supervision of the Store Managers. The Multi-Site Operator's supervisors must devote full time and attention to administering and overseeing the operations of the Stores.

Notwithstanding anything in this Agreement or any Franchise Agreement to the contrary, Multi-Site Operator, and not Licensor, will be responsible for performing all training for Multi-Site Operator's Store Managers and other employees. Accordingly, in order to comply with these obligations, Multi-Site Operator agrees that, at all times during the term of this Agreement and thereafter during the term of any Franchise Agreement, Multi-Site Operator will have at least one designated trainer who is qualified, in Licensor's sole and absolute judgment, to administer Licensor's Kangaroo Express training program; provided that Multi-Site Operator will have 60 days to replace and train the designated trainer in the event such trainer leaves Multi-Site Operator's Kangaroo Express business.

4.3. Guaranties. If Multi-Site Operator is a corporation, a limited partnership whose general partner is a corporation, or a limited liability company or other entity, each Principal Equity Holders (as defined below) of such corporation, limited partnership, limited liability company or other entity will: (i) approve this Agreement in writing; (ii) furnish any personal financial information reasonably requested by Licensor; and (iii) execute the personal guaranty attached to this Agreement as Exhibit 4 (the "Guaranty"), pursuant to which each will personally guarantee Multi-Site Operator's payments and performance obligations under this Agreement and any related agreement entered into between Multi-Site Operator and Licensor, or any Affiliate. Persons or entities that subsequently become Principal Equity Holders will execute the Guaranty within thirty (30) days after becoming a Principal Equity Holder.

"Principal Equity Holders" means, if Multi-Site Operator is a corporation, the shareholders of such corporation owning directly or beneficially 10% or more of such corporation's stock upon the date of this Agreement or at any time thereafter, and, if Multi-Site Operator is a partnership, limited partnership, limited liability company or other entity, the holders that own, directly or indirectly, 10% or more of the equity interests in such entity, as of the date of this Agreement or at any time thereafter.

ARTICLE 5  
OBLIGATIONS OF LICENSOR

Licensor will furnish the following to Multi-Site Operator: (i) materials containing the instructions, requirements, standards, specifications, and procedures for the development and construction of a Kangaroo Express Store, including site selection guidelines and criteria, construction management techniques, and development planning and scheduling methods; (ii) such site selection counseling and assistance as Licensor deems advisable; (iii) such on-site evaluation as Licensor deems advisable in response to Multi-Site Operator's request for site evaluation; provided, however, Licensor will not provide on-site evaluation for any proposed site prior to the receipt of all required information and materials concerning the site; and (iv) the services of one of Licensor's area consultants, who from time to time will communicate with Multi-Site Operator and may assist Multi-Site Operator in Multi-Site Operator's strategic decisions, such as site selection, marketing and operational issues, as well as acting as a liaison between Multi-Site Operator and Licensor. This area consultant may be Multi-Site Operator's only contact with Licensor on a regular basis. Accordingly, Multi-Site Operator acknowledges and agrees that it will maintain its own staff and infrastructure to train Store Managers and other employees, conduct advertising and promotions on its own behalf and perform other operational functions at and for its Stores, and, as a result, Licensor will provide fewer services to Multi-Site Operator as it might to other licensees or Multi-Site Operators. Further, Multi-Site Operator must ensure that its Stores adhere to the image and standards set forth in the individual Franchise Agreement for each Store.

ARTICLE 6  
DEFAULT AND TERMINATION

6.1 Conditions of Breach. Multi-Site Operator will be deemed to be in default under this Agreement, and subject to the remedies set forth in Section 6.2 below, if: (i) Multi-Site Operator fails to enter into Franchise Agreements with Licensor pursuant to this Agreement for the Stores within any period as set forth in the Minimum Development Schedule, (ii) Multi-Site Operator fails to comply with any other terms and conditions of this Agreement or any other agreement between Multi-Site Operator and Licensor or Licensor's affiliate, including failure to meet the Minimum Development Schedule, (iii) Multi-Site Operator makes or attempts to make a transfer or assignment in violation of this Agreement, (iv) any individual Franchise Agreement with Licensor or any other agreement in which Multi-Site Operator and Licensor are parties is terminated due to Multi-Site Operator's default thereunder, (v) a final judgment remains unsatisfied of record for 30 days or longer (unless an appropriate bond is filed), (vi) execution is levied against Multi-Site Operator's business or property, (vii) suit to foreclose any lien or mortgage against Multi-Site Operator's premises or equipment is instituted against Multi-Site Operator and not dismissed within 30 days, (viii) Multi-Site Operator makes any material misrepresentation in connection with this Agreement or engages in conduct which reflects materially and unfavorably upon the operation and reputation of the System; (ix) Multi-Site Operator, or any person or entity controlling, controlled by, or under common control with Multi-Site Operator, is convicted of or pleads nolo contendere to a felony, any crime involving moral turpitude, or other misconduct relevant to the operation of a Store or injurious to the reputation of the System; (x) Multi-Site Operator permits a violation of any law, ordinance, rule, or regulation of a governmental agency to continue for more than 10 days, in the absence of a good faith dispute over its application or legality and without promptly resorting to an appropriate administrative or judicial forum for relief therefrom; (xi) Multi-Site Operator is adjudicated a bankrupt, becomes insolvent, commits any affirmative action of insolvency or files any action or petition of insolvency, or if a receiver (permanent or temporary) of its property or any part thereof is appointed by a court of competent authority, or if it makes a general assignment for the benefit of its creditors. Notwithstanding anything to the contrary in the preceding sentence, Licensor reserves the right to be named as trustee or receiver if any voluntary petition for bankruptcy or insolvency is filed by Multi-Site Operator.

6.2 Remedies for Default. If Multi-Site Operator is in default of this Agreement as described in Section 6.1 above, Licensor, in its sole and absolute judgment, may do any one or more of the following:

(A) Reduce the number of Stores to be developed pursuant to the Minimum Development Schedule;

(B) Increase the Royalty Fees for any Stores that Multi-Site Operator has converted or developed under this Agreement to any level up to the then-current single site Royalty Fee (adjusted according to the applicable level of funding accepted);

(C) Terminate this Agreement and all rights granted hereunder to Multi-Site Operator effective immediately upon receipt by Multi-Site Operator of written notice from Licensor without affording Multi-Site Operator any opportunity to cure the default;

(D) Rather than terminating this Agreement, if the default is for a failure to meet the Minimum Development Schedule, Licensor may charge Multi-Site Operator liquidated damages in an amount equal to \$2,000 per month for each store that is not opened and operating in accordance with the Minimum Development Schedule (For example, if by the end of Year 1 Multi-Site Operator is required to have 45 Stores, but Multi-Site Operator has only 35 open and operating, then Multi-Site Operator will pay \$20,000 in liquidated damages for each month it is behind its development obligations, beginning with the first month of Year 2. If Multi-Site Operator opens 2 Stores in the first month of Year 2, then the liquidated damages for the second month would be \$16,000.) Notwithstanding the foregoing, Licensor's election to charge liquidated damages for one failure to meet the Minimum Development Schedule does not act as a waiver of its right to terminate or pursue other remedies for a subsequent failure to meet the Minimum Development Schedule; or

(E) Exercise any other rights and remedies which Licensor may have under this Agreement or applicable law.

6.3 Expiration of Rights. Upon expiration or termination of this Agreement, all remaining rights granted to Multi-Site Operator to establish Kangaroo Express Stores under this Agreement shall automatically revert to Licensor. Multi-Site Operator shall have no right to establish or operate any Kangaroo Express Store for which a Franchise Agreement has not been executed by Licensor. In addition, Multi-Site Operator will within five days after termination or expiration, pay all amounts due and owing to Licensor under this Agreement and comply with all other applicable provisions of this Agreement, including those with obligations that continue beyond the termination or expiration.

If Multi-Site Operator is in default of this Agreement, but is not in default under any one Franchise Agreement entered into with Licensor, Multi-Site Operator may continue to operate the existing Stores under the terms of the respective Franchise Agreements. No default under this Agreement shall constitute a default under any Franchise Agreement between the parties hereto, except to the extent that any default under this Agreement constitutes a default under any Franchise Agreement in accordance with the terms of the Franchise Agreement. Notwithstanding the above, the terms and conditions of each Franchise Agreement must be complied with by Multi-Site Operator thereunder and shall control in determining whether any default exists under such Franchise Agreement.

## ARTICLE 7

### TRANSFER AND ASSIGNMENT OF MULTIPLE SITE OPERATOR AGREEMENT

7.1 Assignment by Licensor. This Agreement and all rights hereunder can unilaterally be assigned and transferred by Licensor without notice to or consent of Multi-Site Operator and, if so, shall be binding upon and inure to the benefit of Licensor's successors and assigns. The assignee will be required

to fully perform all of Licensor's obligations under this Agreement and expressly assume and agree to perform such obligations.

7.2 Assignment by Multi-Site Operator. Neither Multi-Site Operator nor any partner or shareholder thereof shall, without Licensor's prior written consent, directly or indirectly sell, assign, transfer, convey, give away, pledge, mortgage or otherwise encumber any interest in this Agreement (collectively referred to as "Transfer") or in Multi-Site Operator, unless Multi-Site Operator obtains Licensor's prior written consent and Multi-Site Operator transfers at the same time all of its rights and interest under this Agreement and all Franchise Agreements for Stores at the Franchised Locations. Multi-Site Operator acknowledges and agrees that it cannot Transfer its rights under this Agreement independent of its rights under the Franchise Agreements. Accordingly, the assignment terms and conditions of the Franchise Agreements shall apply to any Transfer of Multi-Site Operator's rights and interest under this Agreement, including the payment of transfer fees and Licensor's right of first refusal. Furthermore, the transferee must demonstrate to Licensor's satisfaction that he, she or it meets the Licensor's managerial, financial, and business standards established for new Multi-Site operators, possesses a good business reputation and credit rating, and possesses the aptitude and ability to operate the Stores required to be opened and operating pursuant to this Agreement in an economic and businesslike manner. Any such proposed Transfer occurring by operation of law or otherwise, including any assignment by or to any trustee in bankruptcy, without Licensor's prior written consent, shall be null and void and a material default of this Agreement.

## ARTICLE 8 COVENANTS

During the term of this Agreement, Multi-Site Operator shall not (and if Multi-Site Operator is a corporation, Multi-Site Operator's officers, directors and principal equity holders shall not, or if Multi-Site Operator is a partnership or limited liability company, Multi-Site Operator's partners or members shall not (collectively, the "Prohibited Parties")), without the prior written consent of Licensor, which consent Licensor may withhold in its sole and absolute judgment, directly or indirectly, engage in, render services to, or have any ownership or other interest in any business or entity which competes with or is similar to a Kangaroo Express Store, including, without limitation, any convenience store. In addition to the foregoing, Multi-Site Operator also agrees that for a period of one year after the expiration or termination of this Agreement, neither Multi-Site Operator nor any Prohibited Parties may, directly or indirectly, without Licensor's prior written consent, engage in, render services to, or have any interest (including as a franchisor) in any business or entity which specializes in or has a substantial part of its business in operating a convenience store within two miles of any business then being conducted under the Marks.

## ARTICLE 9 ARBITRATION

Except as expressly provided herein, the parties will attempt to settle disputes arising out of or relating to this Agreement or the parties' relationship by a meeting of a designated representative of Licensor and Multi-Site Operator within ten (10) days after a request by either of the parties to the other party asking for the same. If such dispute cannot be settled at this meeting, either party may initiate mediation of the dispute. The parties will designate a mediator, or if the parties are unable to agree upon a mediator, each party will choose a mediator and the two mediators will choose a third person to mediate the dispute. If rules for this mediation are not mutually agreed upon by the parties, the Center for Public Resources Model Procedure for Mediation of Business Disputes will govern, and such mediation will take place within forty-five (45) days after a mediator is selected in the county in which Licensor's headquarters are located at the time mediation is demanded (currently Maricopa County, Arizona). Each party will bear its own costs of mediation and share equally the mediator's fees.

If not resolved by mediation and except as qualified below, any dispute between Licensor and Multi-Site Operator or their respective affiliates arising under, out of, in connection with or in relation to this Agreement or the parties' relationship must be submitted to binding arbitration under the authority of the Federal Arbitration Act and in accordance with the Center for Public Resources Rules Non-Administered Arbitration of Business Disputes then in effect. 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 or otherwise to join or consolidate any claim with any other claim or any other proceeding involving third parties. If a court determines that this limitation on joinder of or class action certification of claims is unenforceable, then this entire commitment to arbitrate will become null and void and the parties must submit all claims to the jurisdiction of the courts. The arbitration must take place in the county in which Licensor's headquarters are located at the time arbitration is demanded (currently Maricopa County, Arizona). The arbitrator must follow the law and not disregard the terms of this Agreement. The arbitrator must have at least 5 years of significant experience in franchise law. A judgment may be entered upon the arbitration award by any state or federal court in the state where Licensor maintains its headquarters or the state where Multi-Site Operator is located. The decision of the arbitrator will be final and binding on all parties to the dispute; however, the arbitrator may not under any circumstances: (1) stay the effectiveness of any pending termination of this Agreement; or (2) make any award which extends, modifies or suspends any lawful term of this Agreement or any reasonable standard of business performance that Licensor sets. All applicable statutes of limitations will be tolled while the procedures specified in this Article 9 are pending. The parties will take such action, if any, required to effectuate such tolling.

The parties agree that the following claims will not be subject to arbitration:

1. any action for declaratory or equitable relief, including, without limitation, seeking preliminary or permanent injunctive relief, specific performance, other relief in the nature of equity to enjoin any harm or threat of harm to such party's tangible or intangible property, brought at any time, including, without limitation, prior to or during the pendency of any arbitration proceedings initiated hereunder.
2. any action in ejectment or for possession of any interest in real or personal property.

#### ARTICLE 10 MISCELLANEOUS

10.1 Independent Contractor. Multi-Site Operator is an independent contractor. Nothing herein contained shall be deemed or construed to create the relationship of principal and agent, partnership, joint venture, employment, or a fiduciary relationship, and Multi-Site Operator shall not hold itself out as an agent, legal representative, partner, subsidiary, joint venturer, servant or employee of Licensor. Neither Licensor nor Multi-Site Operator has the right to bind or obligate the other to any obligations or debts. It is expressly understood and agreed that neither Multi-Site Operator nor any employee of Multi-Site Operator whose compensation for services is paid by Multi-Site Operator may, in any way, directly or indirectly, expressly or by implication, be construed to be an employee of Licensor for any purpose, most particularly with respect to any mandated or other insurance coverage, tax or contributions, or requirements pertaining to withholdings, levied or fixed by any city, state, or Federal governmental agency.

10.2 Conduct of Business. It is acknowledged that Multi-Site Operator is the independent owner of its business, in full control thereof to conduct such business in accordance with Multi-Site Operator's own judgment and discretion, subject only to the provisions of this Agreement and such other agreements as may be entered into by these same parties. Licensor shall neither regulate nor be responsible for the hiring or firing of Multi-Site Operator's agents or employees or for Multi-Site Operator's contracts, except to the extent necessary to protect the System as expressly provided in this Agreement. Multi-Site Operator

shall conspicuously identify itself, and its Stores, and in all dealings with its clients, contractors, suppliers, public officials and others, as an independent licensee of Licensor, and shall place such notice of independent ownership on all forms, business cards, stationery, advertising, signs and other materials and in such fashion as Licensor may, in its sole and absolute judgment, specify and require from time to time, set forth in the Manual (as same may be amended from time to time) or otherwise.

10.3 Waiver and Delay. Any party who discovers a claim or demand against the other under this Agreement shall have one year from the date of such discovery in which to settle such claim or demand or to file a lawsuit with respect to it, or the claim or demand shall be deemed to have been waived and abandoned by such party. No waiver or delay by either party with respect to any default by the other of any term, covenant, or condition of this Agreement or in exercising any right, power, or remedy with regard to any such default shall be construed as a waiver of any preceding or succeeding default of any other term, covenant or condition of this Agreement, nor shall it impair any right, remedy or power to enforce the same. The acceptance of any payments shall not be, nor be construed to be, a waiver of any default of any term, covenant or condition of this Agreement. Any waiver, permit, consent or approval of any provision or condition of this Agreement or of any default under this Agreement shall be in writing executed by the party granting such, and shall be effective only to the extent specifically allowed by such writing. All remedies, either under this Agreement, at law, in equity, or otherwise shall be cumulative and not alternative and may be exercised simultaneously or sequentially in any order.

10.4 Successors. Subject to the restrictions in Article 7, this Agreement shall be binding upon and inure to the benefit of the permitted successors, assigns, heirs, and personal representatives of the parties.

10.5 Notices. All communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when delivered personally or by electronic or telecopy transmission, or 24 hours after being sent by overnight professional courier service, or five (5) days after being deposited in the United States mail for certified or registered delivery, return receipt requested, postage prepaid. Any notice to a party to this Agreement shall be addressed to the party's address noted on the front page of this Agreement or such other address as the party may designate in writing from time to time.

## ARTICLE 11 ENFORCEMENT

11.1 Joint and Several Liability. If two or more individuals, corporations, partnerships, or other business associations (or any combination of two or more thereof) shall sign this Agreement as Multi-Site Operator, the liability of each of them shall be joint and several. In like manner, if Multi-Site Operator is a partnership or other business association the partners or members of which are, by virtue of statute or general law, subject to personal liability, the liability of each such partner or member shall be joint and several.

11.2 Applicable Law. Except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. §1051 et seq.), and the Federal Arbitration Act (9 U.S.C. § 1, et seq.), the existence, validity, construction, and sufficiency of performance of this Agreement shall be determined in accordance with the laws of the State of Arizona.

11.3 Choice of Venue. All litigation, lawsuits, court hearings, proceedings or other actions between the parties arising out of this Agreement will be venued in the State of Arizona.

11.4 Severability. All provisions of this Agreement are severable and this Agreement will be interpreted and enforced as if all completely invalid or unenforceable provisions were not contained herein

and partially valid and enforceable provisions will be enforced to the extent valid and enforceable. If any applicable law or rule of any jurisdiction requires a greater prior notice of termination of this Agreement than is required hereunder or the taking of some other action not required hereunder, or if under applicable law any provision of this Agreement is prohibited or otherwise held invalid or unenforceable, the prior notice or other action required by such law or rule will be substituted for the notice requirements hereof or such invalid or unenforceable provision will be modified to the extent required to be valid and enforceable. Such modifications to this Agreement will be effective only in such jurisdiction and will be enforced as originally made and entered into in all other jurisdictions, and shall not invalidate or otherwise render ineffective any or all of the remaining provisions of this Agreement.

11.5 Entire Agreement. This Agreement and all exhibits and documents referred to in this Agreement constitute the entire agreement between the parties and supersede any and all prior negotiations, understandings, representations, and agreements. Nothing in this or in any related agreement, however, is intended to disclaim the representations we made in the franchise disclosure document that we furnished to you.

11.6 Further Assurances. The parties hereby agree to execute such other documents as may be necessary or desirable to carry out the purposes of this Agreement.

11.7 Attorneys' Fees. The parties agree that in the event of any enforcement claim or lawsuit between them, the prevailing party shall be entitled to an award of reasonable expenses, including, without limitation, attorneys' fees and costs and court costs.

IN WITNESS WHEREOF, the parties hereto have duly executed, sealed, and delivered this Agreement in multiple copies on the day and year first above written.

**MULTI-SITE OPERATOR**

**LICENSOR**

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

TMC FRANCHISE CORPORATION  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
**Effective Date:** \_\_\_\_\_

Exhibit 1 to Multiple Site Operator Agreement

**FRANCHISED LOCATIONS**

Multi-Site Operator's conversion and/or development rights are limited to the following existing and/or new convenience store locations ("Franchised Locations"):

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MULTI-SITE OPERATOR:

\_\_\_\_\_

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

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

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

LICENSOR:

TMC FRANCHISE CORPORATION

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

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

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

Exhibit 2 to Multiple Site Operator Agreement

**FRANCHISE AGREEMENT**

*[Attached as Exhibit F to this Franchise Disclosure Document]*

Exhibit 3 to Multiple Site Operator Agreement

**AMENDMENT TO KANGAROO EXPRESS® FRANCHISE AGREEMENT  
FOR MULTI-SITE OPERATORS**

This Amendment to Kangaroo Express® Franchise Agreement For Multi-Site Operators (the “Amendment”) is entered into by and between TMC Franchise Corporation (“Franchisor”) and \_\_\_\_\_ [Multi-Site Operator or Multi-Site Operator’s affiliate] (“Franchisee”). All capitalized terms not defined in this Amendment have the meanings ascribed to them in the Franchise Agreement (defined below). To the extent that the terms of this Amendment are inconsistent with any of the terms of the Franchise Agreement, the terms of this Amendment will supersede and govern. This Amendment will be deemed effective on the date Franchisor signs below (the “Effective Date”).

**RECITALS**

A. Franchisor and Franchisee (the “Parties”), or an affiliate of Franchisee, entered into a Multiple Site Operator Agreement (“Multiple Site Operator Agreement”), whereby Franchisee was granted the right, and undertook the obligation, to open and to operate multiple Kangaroo Express® convenience stores pursuant to a minimum development schedule set forth therein (the “Minimum Development Schedule”).

B. Based on the execution of the Multiple Site Operator Agreement, the Parties are willing to amend the individual franchise agreement for each Kangaroo Express® convenience store developed by Franchisee pursuant to the Multiple Site Operator Agreement.

C. This Amendment shall therefore be attached to each franchise agreement executed for any Kangaroo Express® convenience store developed pursuant to the Multiple Site Operator Agreement, whether such franchise agreement is being signed by Franchisee or its affiliate.

D. Concurrently herewith, Franchisor and Franchisee are entering into a franchise agreement (the “Franchise Agreement”) granting Franchisee the right and obligation to open and operate a Kangaroo Express convenience store (the “Store”) at the following location:

\_\_\_\_\_.

**AGREEMENT**

NOW, THEREFORE, in consideration of the covenants contained herein, Franchisor and Franchisee agree as follows:

1. Section 2.4 of the Franchise Agreement is hereby deleted in its entirety and replaced with the following:

Relocation. Franchisee does not have the right to change the Franchised Location without the prior written consent of Franchisor. Franchisee shall request such consent in writing which sets forth the proposed new location and reason for the relocation. Franchisor will have no less than sixty (60) days from the date the request is received to approve or deny

the relocation of the Store. If Franchisor consents to such relocation, Franchisee may relocate the Store at its sole cost and expense, including upon the payment of a relocation fee payable to Franchisor equal to fifty percent (50%) of the Initial Franchise Fee that Franchisee originally paid with respect to the Store in question. If Franchisor approves the relocation, Franchisor reserves the right to require Franchisee to execute Franchisor's then current form of Franchise Agreement for such new location.

2. Section 5.1 of the Franchise Agreement is hereby deleted in its entirety and replaced with the following:

Initial Franchise Fee. In consideration of the Franchise granted herein, Franchisee will pay, simultaneously with the execution of this Agreement, or has already paid under the Multiple Site Operator Agreement, as applicable, to Franchisor, a non-refundable Initial Franchise Fee in the amount identified on the Data Sheet.

3. Royalty Fees. Section 5.2 of the Franchise Agreement is hereby deleted in its entirety and replaced with the following:

Franchisee has accepted Level \_\_\_ Equipment/Construction Funding for this Store. Provided that Franchisee is in full compliance with the terms and conditions of each of its agreements with Franchisor and Franchisor's Affiliates, including but not limited to the Minimum Development Schedule in the Multiple Site Operator Agreement, based on the total number of Kangaroo Express convenience stores that Franchisee (or its Affiliates) is currently operating and has committed to develop pursuant to the Minimum Development Schedule under the Multiple Site Operator Agreement, Franchisor has determined that Franchisee shall pay a Royalty Fee in the amount of the greater of (a) \_\_\_% of Gross Sales (the "Royalty Rate") or (b) \$1,000.

If Franchisee, or Franchisee's Affiliate, fails to comply with its Minimum Development Schedule under the Multiple Site Operator Agreement or Franchisee otherwise fails to comply with its agreements with Franchisor or Franchisor's Affiliates (such noncompliance, "Event of Default"), in addition to any other remedies Franchisor or its Affiliates may have under the agreements with Franchisee and under applicable law, Franchisor may increase the Royalty Rate for the Store to the applicable level set forth below in this Section 3 (the "Default Royalty Rate"), determined based on the total number of Kangaroo Express® convenience stores then-operated by Franchisee or Franchisee's Affiliates (and the other factors noted below), and such Default Royalty Rate shall apply so long as the Event of Default is continuing.

<b>Number of Stores</b>	<b>Amount of Equipment/Construction Funding Accepted</b>	<b>Royalty Fee (based upon Gross Sales)</b>
1-5 Stores	No Equipment/Construction Funding Accepted	3.0% per Store
	Level 1 Equipment/Construction Funding Accepted	3.75% per Store
	Level 2 Equipment/Construction Funding Accepted	4.5% per Store
	Level 3 Equipment/Construction Funding Accepted	5.5% per Store
6-9 Stores	No Equipment/Construction Funding Accepted	2.85% per Store
	Level 1 Equipment/Construction Funding Accepted	3.5% per Store
	Level 2 Equipment/Construction Funding Accepted	4.2% per Store
	Level 3 Equipment/Construction Funding Accepted	5.2% per Store
10-19 Stores	No Equipment/Construction Funding Accepted	2.7% per Store
	Level 1 Equipment/Construction Funding Accepted	3.3% per Store
	Level 2 Equipment/Construction Funding Accepted	3.9% per Store
	Level 3 Equipment/Construction Funding Accepted	4.9% per Store
20-29 Stores	No Equipment/Construction Funding Accepted	2.5% per Store
	Level 1 Equipment/Construction Funding Accepted	3.1% per Store
	Level 2 Equipment/Construction Funding Accepted	3.7% per Store
	Level 3 Equipment/Construction Funding Accepted	4.7% per Store
30 or more Stores	No Equipment/Construction Funding Accepted	2.5% per Store
	Level 1 Equipment/Construction Funding Accepted	3.0% per Store
	Level 2 Equipment/Construction Funding Accepted	3.5% per Store
	Level 3 Equipment/Construction Funding Accepted	4.5% per Store

In addition, if the Store is located in an area that prohibits or restricts the collection of royalties on the sale of alcoholic beverages, the applicable Default Royalty Rate in the table

above will be increased by 0.5%, provided the definition of Gross Sales applicable to such Store will not include any income from the sale of alcoholic beverages. Finally, if Franchisor permits Franchisee to install gaming machines in the Store, the Default Royalty Rate will be increased by up to 1%, as determined by Franchisor.

4. Advertising Programs and Vendor Promotions. Franchisee acknowledges and agrees that Franchisee, rather than Franchisor, may be, at Franchisor's option, responsible for administering and collecting marketing, promotional or other similar allowances that Franchisee is entitled to receive under Section 6.6 of the Franchise Agreement. This modification to Section 6.6, however, in no way amends or modifies Section 8.4 of the Franchise Agreement which remains in full force and effect.

5. Remodeling and Redecoration of Franchised Location. In the third sentence of Section 7.5 of the Franchise Agreement, the words "within three (3) months" are hereby deleted and replaced by the words "within six (6) months."

6. Financial Statements. In addition to the financial statements required under Section 11.3, Franchisee is required, on an annual basis, to provide to Franchisor year-end financial statements together with a letter from Franchisee's chief financial officer documenting the certified annual sales figures for Franchisee's Kangaroo Express® business. Franchisee will provide the audited year-end financial statements to Franchisor no later than 90 days after the end of Franchisee's fiscal year. These financial statements will include a balance sheet, statement of income, and statement of cash flows. At Franchisor's request, the financial statements identified above must be audited by an independent auditor.

7. Services Provided By Franchisor. Although Franchisor will continue to provide services to Franchisee as set forth in Article 12, Franchisee acknowledges and agrees that Franchisor will provide fewer services to Franchisee than it provides other Kangaroo Express® franchisees that are not party to a Multiple Site Operator Agreement.

8. Notice of Breach. Franchisee acknowledges, understands, and agrees that the reduction in Royalty Fee it receives (as set forth in the table above) is due, in part, because Franchisee has committed to maintain training, advertising and promotions, and other operational programs and standards through its own employees and infrastructure, and, as a result, Franchisor will provide fewer services to Franchisee in these areas, all as further set forth in the Multiple Site Operator Agreement. If Franchisor determines that Franchisee has not satisfied the above-mentioned obligations and standards through its own employees and infrastructure, then Franchisee shall be in breach of the Franchise Agreement, in addition to being in breach of the Multiple Site Operator Agreement, and Franchisor shall have the right to increase Franchisee's monthly Royalty Fee under the Franchise Agreement, among other remedies available to Franchisor. Specifically, if Franchisee, or Franchisee's Affiliate, breaches its obligations under the Multiple Site Operator Agreement, the Franchise Agreement or this Amendment and as a result Franchisor deems it necessary to provide additional support to Franchisee, in order to ensure Franchisee's ongoing compliance with the Franchise Agreement, and in addition to any other remedies it may have, Franchisor may increase the monthly Royalty Fee to any level up to the then-current single-site Royalty Fee (adjusted according to the level of funding accepted by Franchisee) for such additional support, as long as it is provided.

9. Breach of Related Agreements. The second sentence of Section 14.6 is hereby deleted and replaced with the following:

Simultaneously, at Franchisor's election, any default by Franchisee in any other agreement between Franchisee and Franchisor, or Franchisor's affiliate, that involves Franchisee's: (i) abandonment of a Kangaroo Express® store, (ii) material misrepresentation of fact (including an intentional understatement of gross sales), (iii) criminal conviction or pleading of nolo contendere to a felony or other crime involving moral turpitude, (iv) violation of the law, (v) infringement or misuse of the Marks or any other identifying characteristic of the Business System, (vi) filing for bankruptcy or having been adjudicated bankrupt or insolvent, (vii) assignment for the benefit of creditors, (viii) Business Assets (as defined in Section 15.2) being lawfully seized, taken over, or foreclosed by a government official, creditor, or lessor, or (ix) act or failure to act that otherwise materially impairs the Marks or the Business System, shall constitute a default by Franchisee under this Agreement notwithstanding that at such time Franchisee may be fully and promptly performing its obligations hereunder.

10. Right to Purchase Franchisee's Business Assets; Transfer Fee. Notwithstanding anything in the Franchise Agreement to the contrary, including Article 16 thereof, if Franchisee simultaneously offers to pledge, sell, assign, trade, transfer, lease, sublease or otherwise dispose of the Business Assets of two or more Stores, Franchisor's right to purchase such Business Assets will be subject to Franchisor's agreement to purchase all such offered Business Assets according to the Price and Terms (as defined in Article 16) offered; provided that nothing in this paragraph shall be construed as limiting Franchisee's obligations under the Franchise Agreement, including the assignment provisions under Article 15 thereof. Furthermore, Franchisee may not assign, transfer or sell the Store or Franchisee's rights and privileges for any individual Store operating under the Multiple Site Operator Agreement except with prior written approval from Franchisor. If such transfer is approved by Franchisor, in addition to complying with the transfer terms and conditions set forth in the Franchise Agreement, the proposed assignee will have executed the then-current form of single site Franchise Agreement.

11. Notice of Purchase. The third sentence of Section 16.3 is hereby deleted and replaced with the following:

Franchisor will have ninety (90) days from Franchisor's notice to Franchisee acknowledging receipt of this information to give Franchisee written notice which will either waive its right of first refusal to purchase, or will state an interest in purchasing Franchisee's Business Assets.

12. Training Program. Notwithstanding anything in the Franchise Agreement to the contrary, Franchisee, and not Franchisor, will be responsible for performing each and all of Franchisor's training duties and functions for the Store Manager and other employees as set forth in Sections 8.6 and 8.13 through 8.16 of the Franchise Agreement. Accordingly, in order to comply with these obligations, Franchisee agrees that, at all times during the Term of the Franchise Agreement, Franchisee will have at least one (1) designated trainer who is qualified to administer Franchisor's Kangaroo Express® training program; provided that Franchisee will have sixty (60) days to replace and train the designated trainer if such trainer leaves Franchisee's Kangaroo Express® business. Franchisee's failure to comply with the terms of this paragraph will be a

material breach, subject to a thirty (30) day cure period, under Section 14.3 of the Franchise Agreement.

13. Effective Date. This Amendment is effective as of the Effective Date of the Franchise Agreement and shall terminate upon the termination of the Franchise Agreement.

14. Miscellaneous. The Franchise Agreement and this Amendment constitute the entire agreement between the parties involving the franchise relationship for the Franchised Location. Except as expressly modified herein, the Franchise Agreement remains in full force and effect as written in accordance with Section 20.11.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the Effective Date, as set forth above.

**FRANCHISEE:**

**FRANCHISOR:**

**TMC FRANCHISE  
CORPORATION**

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

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

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

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

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

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

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

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

Exhibit 4 to Multiple Site Operator Agreement

**PERSONAL GUARANTY**

[Attached as Exhibit K to this Franchise Disclosure Document]

**NOTE: The following documents are only applicable if you enter into a motor fuel agreement with us. You are not required to purchase motor fuel from us or our affiliates.**

**EXHIBIT H**

Motor Fuel Agreement

## MOTOR FUEL AGREEMENT

This Motor Fuel Agreement (the "Agreement") is made and entered into between TMC Franchise Corporation ("Seller") and \_\_\_\_\_ ("Purchaser").

### WITNESSETH:

In consideration of the mutual promises herein contained, Seller, or its affiliate on behalf of Seller, will sell and deliver to Purchaser at the premises located at \_\_\_\_\_, (the "Premises"), and Purchaser will purchase, receive and pay for, branded motor fuel product(s) under the Kangaroo Express® trademarks, service marks, trade names, brand names, trade dress, logos, color patterns, color schemes, design schemes, insignia, image standards or other brand identifications (the "Proprietary Marks"), and other products, of the kind and in the quantities and under the terms and conditions specifically set forth in Commodity Schedule(s) attached hereto and made a part hereof.

1. Term; Renewal. This term ("Term") of this Agreement will begin on the Effective Date (as defined on the signature page hereto) and will terminate upon the expiration or earlier termination of the Franchise Agreement entered into between Seller and Purchaser governing the Premises (the "Franchise Agreement"), unless terminated earlier pursuant to the terms hereof. The Term will renew if and only if the Franchise Agreement is renewed, in accordance with the renewal terms and conditions set forth in the Franchise Agreement.

2. Products. Purchaser agrees that Seller will be the exclusive supplier of all of Purchaser's motor fuel requirements at the Premises at all times during the Term. The following Commodity Schedule(s) forming a part of this Agreement were affixed at or before the signing hereof.

COMMODITY SCHEDULE(S)	DATE
Gasoline	Effective Date
Diesel	Effective Date

By mutual agreement, this Agreement may be amended from time to time by adding other or additional schedules, substituting revised schedules or by deleting one or more items or provisions from any Commodity Schedule(s) listed above. Additional and revised schedules will be so marked and initialed by an authorized representative of Seller and by Purchaser and shall be affixed to and become a part of this Agreement from and after the date appearing on such additional or revised schedule(s). Deletions shall be by notice given as provided herein and effective when received.

3. Quantity. Seller will sell to Purchaser and Purchaser will purchase from Seller all of Purchaser's requirements for the product(s) covered by this Agreement in no less than the quantities shown on the applicable Commodity Schedule(s). However, during any period of this Agreement for which the amount of any such product(s) that Seller is required to deliver to Purchaser is prescribed by government rules, regulations or orders, or becomes subject to an allocation by Seller's supplier of such products, the quantity of such product(s) covered by this Agreement shall be the quantity so prescribed or allocated instead of the quantity shown on the applicable Commodity Schedule(s). For purposes of the Commodity Schedule(s), the "agreement quantity" for any period shall be the quantity of product(s) which Seller is obligated to sell and Purchaser is obligated to buy under this Agreement during that period whether prescribed by the attached Commodity Schedule(s) or by government rules, regulations or orders. If Supplier reduces its allocation of products to Seller, then the quantity of products that Seller is obligated to deliver and sell to Purchaser under the applicable Commodity Schedule(s) shall be reduced in the same proportion as Supplier's reduction of its allocation to Seller for the same product and grade. Any purchase or sale in excess of the volumes described above shall not be considered to modify this Agreement as regards quantities to be delivered.

4. Price/Method of pPayment; Security.

(a) The price of the product(s) covered by this Agreement shall be as stated in the applicable Commodity Schedule(s). The price of the product(s) covered by this Agreement will also include Seller's then-current cost for transporting the product(s) to you. Purchaser shall pay via electronic funds transfer ("EFT") (or at Seller's option, cash, certified or cashier's check, money order, Automated Direct Debit System, or other means approved by Seller), in full, for all products delivered to Purchaser by Seller under the terms of this Agreement within three (3) days of the delivery of such products.

(b) Where Seller requires payment via EFT, Purchaser will establish a commercial account with a financial institution that provides EFT services and will authorize Seller to initiate transfers of funds between Purchaser's account and Seller's accounts for payment of all amounts due to Seller under this Agreement. Purchaser shall not use, or permit to be used, said commercial account for personal, family, or household purposes. Purchaser will provide Seller with all information and authorization necessary to debit and credit Purchaser's account. Purchaser shall execute concurrently herewith Seller's standard EFT authorization agreement to permit Seller to debit and credit Purchaser's account. Purchaser shall maintain at all times funds in its account sufficient to make payments to Seller at the time of the EFT transaction. Should any EFT transaction be rejected by Purchaser's financial institution for Purchaser's failure to maintain sufficient funds in Purchaser's account, in addition to any other rights Seller may have under this Agreement or the law, Seller may collect a service charge for each occurrence of such rejection, whether or not payment is subsequently paid by Purchaser. In such event, Seller may also require, that subsequent payments be made by means of cash, certified or cashier's check, money order, or other means satisfactory to Seller upon or prior to delivery of product covered hereunder. Additionally, if insufficient funds are available in Purchaser's account at the time payment is due, Seller may charge Purchaser its then-current insufficient funds fee for each insufficient funds payment. Additionally, if Purchaser fails to timely pay Seller any amounts due under this Agreement by the due date, the payment will be considered late and Seller may charge Purchaser interest on the amount past due at the lesser of 1½ % per month or the maximum legal rate allowed under applicable law, but no more than 18% per annum simple interest. A payment will be considered late if (i) Purchaser fails to pay Seller the total amount owed when due or (ii) if insufficient funds are available in Purchaser's account to fully pay the amount owed. Purchaser shall indemnify, defend and hold Seller harmless for any losses, costs, or damages arising out of any breach or violation of this subparagraph (b).

(c) If at any time the financial responsibility of Purchaser shall become impaired or unsatisfactory to Seller, or should Purchaser be in arrears in his accounts with Seller, Seller may require, as a condition of making further deliveries under this Agreement, payment by Purchaser of all past due accounts and cash payment prior to, or upon, all such future deliveries.

(d) In connection with signing this Agreement, Purchaser must sign the Security Deposit Agreement attached hereto as Exhibit 1 and pay Seller a security deposit in accordance with the terms of the Security Deposit Agreement.

5. Control. Purchaser is an independent business with the exclusive right to direct and control the business operation at the Premises, including the establishment of the prices at which products and merchandise are sold. Seller reserves no control over the business at the Premises. Purchaser has no authority to employ anyone as an employee or agent of Seller for any purpose. No employee of Purchaser will be deemed to be an employee of Seller for any purpose whatsoever, and nothing in any aspect of this Agreement or with respect to the Proprietary Marks in any way shifts any employee or employment related responsibility from Seller to Purchaser. Purchaser alone is responsible for hiring, firing, training, setting hours for and supervising all employees.

6. Liability; Indemnification. Seller shall not be liable to Purchaser or to any other person for any damage to or loss of property, or for injury to or death of persons, or for the violation by Purchaser or any other person, of any governmental statute, law, regulation, rule, or ordinance, arising from the operation or activities of Purchaser or any other person pursuant to this Agreement. Purchaser shall indemnify, protect, defend, and save Seller harmless from and against any and all losses, claims, liabilities, environmental cleanup costs, fines, penalties, suits and actions, judgments and costs, including attorneys' fees and the costs of litigation, which shall arise from, or grow out of, any injury to or death of persons, or damage to or loss of property, or violation by Purchaser or any other person of any

governmental statute, law, regulation, rule, or ordinance, directly or indirectly resulting from, or in any way connected with (i) Purchaser's performance of this Agreement, (ii) operation of Purchaser, or activities of any other person, at the Premises, or (iii) the condition of the Premises or of the adjoining streets, sidewalks or ways, irrespective of whether such injury, death, damage or loss is sustained by Purchaser or any other person, firm or corporation which may seek to hold Seller liable. The existence or non-existence of any insurance required under this Agreement will not limit Purchaser's indemnity or other obligations under this Agreement. This indemnity shall survive the termination or nonrenewal of this Agreement.

7. Credit. Nothing herein shall be construed as obligating Seller to extend any credit to Purchaser.

8. Debit/Credit Cards.

(a) As long as Seller elects to accept specified credit cards, credit identifications, fleet cards, debit cards, pre-paid cards or other similar transaction authorization cards (collectively "Transaction Cards"), Purchaser must accept and honor all Transaction Cards identified in Seller's Kangaroo Express Card Guide and other similar manuals and guidelines, whether in written or electronic form (such guide, manuals, and other guidelines referred to as the "Card Guide") for the purchase of authorized products and services. Purchaser shall account for and process all such transactions in strict compliance with the terms set forth in the Kangaroo Express Card Guide. Purchaser shall pay all debit/credit card (processing) fees and service (transaction) fees incurred in connection with the debit/credit card transactions. The current processing and transaction fees are noted in Seller's current franchise disclosure document. Seller reserves the right to modify the processing and/or transaction fees from time to time on 30 days' advance written notice, up to an increase of ten percent (10%) in any twelve-month period.

(b) Seller shall accept from Purchaser all transactions generated as a result of purchases made with authorized Transaction Cards and shall process such purchases in accordance with the terms in the Card Guide. At Seller's option, Seller shall pay the amount of the transactions to Purchaser, after deducting all processing and transaction fees, by: (i) check to Purchaser; (ii) a credit to Purchaser's bank account by EFT; or (iii) setting off the amount against Purchaser's account with Seller.

(c) For each transaction not authorized, disputed by a customer, or otherwise subject to charge back under the Card Guide, Seller may either charge the amount to Purchaser's account or require Purchaser to make immediate refund to Seller, including refund by draft or EFT initiated by Seller, without any deduction for any transaction and/or processing fees.

(d) Purchaser acknowledges receipt of a copy of the Card Guide and shall comply fully with the operating rules, terms and conditions thereof. Without limiting any rights or remedies available to Seller, if Purchaser fails to comply with this paragraph or the Card Guide, Seller may limit or terminate Purchaser's right to participate in the Transaction Card program. Further, Seller may alter, modify, amend, or terminate the Transaction Card program at any time upon notice to Purchaser.

(e) Seller reserves the right to charge back sales transaction amounts. Purchaser shall maintain a record of each sales transaction (including the actual draft generated by the sale) for a period of no less than six (6) months from the date of the transaction. Any debit/credit card transactions that are charged back because of failure to comply with the then-current instructions and policies in the Card Guide or because of customer dispute will be the responsibility of the Purchaser.

(f) Purchaser and Seller agree that all Transaction Card sales at the Premises will be made pursuant to a point of sale ("POS") system for processing Transaction Cards. Purchaser will have the responsibility of providing a POS machine and other associated equipment at all times during the Term of this Agreement at the Premises and will comply with Seller's POS policies and guidelines, as amended from time to time. Such POS machine and other associated equipment will be the property of Purchaser. Seller agrees to provide network connectivity to Purchaser. In connection with providing network connectivity to Purchaser, Purchaser and Seller will enter into the Credit Network Agreement attached hereto as Exhibit 2. In accordance with the terms of the Credit Network Agreement, Purchaser will pay Seller a monthly Network Fee, which Seller may increase upon 30 days' advance written notice.

Purchaser understands that Seller's or third-party software or firmware or equipment may be installed in the POS machine for use at the Premises and that such software or firmware or equipment are proprietary products of the Seller or the third party. In such event, Purchaser understands and agrees that it has no right, title, or ownership interest in such software or firmware or equipment and agrees that it will not attempt to copy, modify, reverse engineer, decompile, disassemble or otherwise attempt to derive the source code of such software or firmware or equipment. It is Purchaser's responsibility to make sure that it is in compliance with all laws that are applicable to the POS system or other technology used in the operation of Purchaser's business, including all data protection or security laws as well as payment card industry (PCI) and Europay, MasterCard and Visa (EMV) compliance.

(g) If Seller introduces its own proprietary credit cards, credit identifications, fleet cards, debit cards, pre-paid cards or other similar transaction authorization cards for the purchase of Kangaroo Express motor fuel products, Purchaser shall accept and honor all such cards pursuant to the terms and conditions contained in this paragraph 9. The term "Transaction Cards" shall be understood to include all such Kangaroo Express cards.

9. Delivery; Title; Risk of Loss. Delivery, passage of title and risk of loss of the product(s) covered by this Agreement shall be as set forth in the attached Commodity Schedule(s).

10. Taxes. It is agreed that any duty, tax, fee or other charge which Seller may be required to collect or pay under any municipal, state, federal or other laws now in effect or hereafter enacted with respect to the production, manufacture, inspection, transportation, storage, sale, delivery or use of the product(s) covered by this Agreement shall be added to the prices to be paid by Purchaser for product(s) purchased hereunder.

11. Delays or Failure to Perform.

(a) Any delays in or failure of performance of either party hereto shall not constitute default hereunder or give rise to any claims for damages of and to the extent that such delay or failure is caused by occurrences including, but not limited to, acts of God or the public enemy; expropriation or confiscation of facilities; compliance with any order or request of any governmental authority; acts of war, rebellion, terror, or sabotage or damage resulting there from; embargoes or other import or export restrictions; fires, floods, explosions, accidents, or breakdowns; riots; strikes or other concerted acts of workers, whether direct or indirect; or any other causes whether or not of the same class or kind as those specifically above named which are not within the control of the party affected and which, by the exercise of reasonable diligence, said party is unable to prevent or provide against. A party whose performance is affected by any of the causes set forth in the preceding sentence shall give prompt written notice thereof to the other party.

(b) Seller shall be under no obligation to make deliveries hereunder at any time when in Seller's sole judgment it has reason to believe that the making of such delivery would be likely to cause strikes to be called against it or cause its properties to be picketed.

(c) Seller shall not be required to make up deliveries omitted on account of any of the causes set forth in subparagraph (a) above.

(d) Nothing in this paragraph shall excuse Purchaser from making payment when due for deliveries made under the Agreement.

12. Excess Quantities. If Seller should actually deliver to Purchaser, and Purchaser should actually accept and receive, during the Term hereof, including any renewal periods, quantities of product(s) in excess of the maximum quantities provided in the Commodity Schedule, Purchaser shall pay for said product(s) at the prices and in the method herein provided. However, nothing in this paragraph shall be deemed to authorize the purchase of quantities otherwise unauthorized under monthly or annual quantity limitations.

13. Determination of Quantity and Quality. The quantity and quality of product(s) sold hereunder shall be for all purposes conclusively deemed to be the quantity and quality set forth in Seller's document of delivery unless, within twenty-four (24) hours of the time of delivery, Purchaser delivers to Seller written notice of any claimed shortage in

quantity or claimed deviation in quality, or where discovery of any such shortage or deviation could not reasonably have been discovered by careful inspection at the time of delivery, within three (3) days after discovery. Purchaser's written notice, or the absence thereof, shall be conclusive with respect to the fact of and the time and date of notice under this paragraph. Time is of the essence in complying with this provision.

14. No Changes to Products; Inspections; Use of Proprietary Marks; Approved Suppliers.

(a) Purchaser shall not mix, commingle, blend, adulterate, or otherwise change the composition of any of the product(s) purchased hereunder and resold by Purchaser under said Proprietary Marks with other products or substances in any manner.

(b) Seller is hereby given the right to enter the Premises and to examine at any time, and from time to time, the contents of Purchaser's tanks or containers in which said product(s) purchased hereunder are stored and to take samples there from and, if in the opinion of Seller, any samples taken are not said product(s) and in the condition in which delivered by Seller to Purchaser then Seller may at its option cancel and terminate this Agreement. Seller's inspection rights under the Franchise Agreement shall apply to this Agreement, and in connection therewith, Seller shall have the right to enter the Premises unimpeded to review and audit all station records including, but not limited to, all records of deliveries, sales and inventory reconciliation, to take samples of motor fuels stored at the Premises, and to inspect equipment and Purchaser's use of the Proprietary Marks. Any evaluation or inspection Seller conducts is not intended to exercise, and does not constitute, control over Purchaser's day-to-day operation of Purchaser's business or to assume any responsibility for Purchaser's obligations under this Agreement.

(c) All use by Purchaser of the Proprietary Marks hereunder must comply with the trademark requirements and related terms and conditions set forth in the Franchise Agreement. Without limiting the foregoing, all items containing the Proprietary Marks (including all signage) must be purchased from Seller's approved suppliers. Seller will provide Purchaser with a list of approved suppliers, which list Seller may modify from time to time. Upon termination, non-renewal or expiration of this Agreement or at any time upon demand by Seller, in accordance with the terms set forth in the Franchise Agreement, Purchaser shall discontinue all use of Proprietary Marks.

(d) While Purchaser uses the Proprietary Marks hereunder, Seller's customer service standards as set forth in the Franchise Agreement shall apply to Purchaser's conduct under this Agreement. Purchaser shall participate in Seller's image evaluation programs, "mystery" or shop audit programs, or any similar programs, conducted or sponsored by Seller. Purchaser shall promptly take corrective action as required by Seller to bring the Premises into compliance with the Seller's brand standards set forth in the Franchise Agreement. Purchaser understands and agrees that Purchaser's failure to comply with any such program shall be a material breach of this Agreement.

15. Quality, Specification or Name of Product. Seller shall have the right at any time during the life of this Agreement to change, alter, amend or eliminate any of the motor fuel product(s) covered by this Agreement. Seller may also either (a) change or alter the quality, grade, or specifications of any product(s) covered by this Agreement or (b) discontinue the availability of any such product(s). Any such change or discontinuation shall not affect the minimum purchase requirements set forth in the Commodity Schedule(s) attached hereto. Seller shall give Purchaser written notice of discontinuance of the manufacture of any product(s) covered by this Agreement. The Agreement shall terminate as to such discontinued product(s) when such notice is effective.

16. Assignment. This Agreement is personal to Purchaser. Purchaser's interest in this Agreement shall not be transferred or assigned by Purchaser in whole or in part, directly or indirectly, without the prior written consent of Seller and only upon satisfaction of the transfer conditions set forth in the Franchise Agreement. The transfer provisions of the Franchise Agreement apply to any Transfer (as such term is defined in the Franchise Agreement) by Purchaser hereunder. This Agreement, or any of Purchaser's rights or obligations hereunder, may only be transferred contemporaneously with the transfer of the Franchise Agreement and only to the approved transferee of the Franchise Agreement.

17. Waiver. No waiver by Seller of any breach of any of the covenants or conditions herein contained to be performed by the Purchaser shall be construed as a waiver of any succeeding breach of the same or any other covenant or condition.

18. Environmental Compliance.

(a) Purchaser shall become informed about and comply with all local, state and federal laws, statutes, regulations and ordinances related to environmental protection or compliance relevant to Purchaser's operations at the Premises, whether currently in effect or which may come into effect in the future.

(b) Purchaser shall comply with all applicable local, state and federal underground storage tank ("UST") compliance requirements, whether currently in effect or which may come into effect in the future, including, but not limited to: (i) required inspections of any release detection equipment for USTs and product lines; (ii) required inspections of any automatic tank gauging equipment; and (iii) maintenance and required inspections of any vapor recovery equipment. Purchaser shall maintain written records of all maintenance and inspections of UST equipment. Repair workorders and records on USTs must be kept for the life of the tank.

(c) Purchaser shall make accurate daily physical measurement of all products stored in USTs and perform accurate daily and monthly reconciliation of such measurements with metered sales and product deliveries in accordance with all applicable state, local and federal requirements. Purchaser shall develop and maintain accurate written records of the daily physical product measurements and daily and monthly reconciliation. Purchaser will maintain such records at the Premises for at least twelve (12) months, or longer if required by law. Purchaser shall immediately notify Seller and any appropriate local, state or federal governmental agency after discovery of any inventory loss or other condition which may be the result of a leaking UST or other equipment failure. Purchaser shall immediately investigate and undertake all appropriate initial abatement and other emergency measures to contain, treat, mitigate and/or remediate a discharge, spill, or release of motor fuels or other motor fuel products at the Premises.

(d) Purchaser shall become informed about and comply with all applicable local, state and federal requirements related to the generation, handling, transportation, treatment, storage and/or disposal of solid or hazardous wastes. Purchaser also shall implement appropriate recycling, waste management and waste minimization practices and procedures as necessary to remain in compliance with all applicable local, state and federal environmental protection and compliance requirements.

(e) Purchaser agrees that Seller's representatives shall be permitted to enter upon the Premises from time to time to perform physical measurements and reconciliation of product stored in USTs and to inspect and/or test any equipment and records used for complying with any local, state, or federal environmental protection or environmental compliance requirements, including, but not limited to, Purchaser's reconciliation and inspection records. However, Seller is not obligated to make any such inspections or tests.

(f) Purchaser shall, if requested by Seller, cooperate in all current and future environmental protection programs established by Seller and/or Seller's supplier.

(g) Purchaser shall properly maintain all USTs, hoses, connections, and associated equipment at the Premises. Seller may, without liability to Purchaser, refuse to make delivery of products covered under this Agreement if Seller believes any UST, hose, connection, or associated equipment is not safely maintained or in compliance with applicable safety standards.

(h) Purchaser shall indemnify, defend, protect and hold Seller, its employees, officers, directors, shareholders, agents and affiliates harmless from and against any and all liabilities, losses, obligations, claims, damages (consequential or otherwise), penalties, suits, actions, judgments, costs and expenses (including attorneys' fees) of whatever nature for personal injury (including death) of persons (including, without limitation, agents and employees of Seller or Purchaser) or property damage (including, without limitation, damage to the property of Seller or Purchaser), which may be imposed on, incurred by or asserted against Seller directly or indirectly, (i) caused in whole or in part by Purchaser's failure to comply with the terms of this paragraph or with any local, state or federal

law, statute, regulation or ordinance, whether currently in effect or which may come into effect, related to environmental protection or environmental compliance or (ii) for any releases or discharges of motor fuel or motor fuel products into the environment caused, in whole or in part, by the acts or omissions of Purchaser, its employees, agents, contractors, customers, licensees, or invitees. This indemnity in no way limits and is intended to be within the scope of the general indemnity set forth in paragraph 6 hereof. The terms and provisions of this paragraph shall survive the expiration or termination of this Agreement.

19. Price Regulation.

(a) If at any time Seller determines that due to governmental regulations, it is unable to increase the price of any of the product(s) deliverable under this Agreement by an amount which is sufficient in Seller's judgment to reflect increases in either (i) the cost of such product(s) to Seller or Seller's supplier or (ii) the fair market value of such product(s), which have occurred since the date of this Agreement or the date of the last increase in the price of such product(s) whichever is later, Seller may cancel this Agreement upon thirty (30) days' written notice to Purchaser, or may suspend this Agreement while such limitation is in effect.

(b) Notwithstanding any other provision of this Agreement, if any state or local law, rule, regulation, or order (i) regulating the price at which a product(s) to be delivered hereunder may be sold, or (ii) limiting the discretion of Seller to determine to whom they will sell such product(s) becomes effective during the Term of this Agreement in any state in which such product(s) is to be delivered hereunder, Seller shall have the right to terminate this Agreement immediately.

20. Notices. All written notices required or permitted to be given by this Agreement shall be deemed to be duly given if delivered personally or sent via certified or via a reputable, national overnight mail, such as Federal Express, to Seller or to Purchaser, as the case may be, at the address set forth above or to such other address as may be furnished by either party to the other in writing in accordance with the provisions of this paragraph. The date of mailing shall be deemed the date of giving such notice, except for notice of change of address, which must be received to be effective.

21. Equipment; Trade Fixtures. Purchaser shall provide all necessary buildings, improvements, equipment, tools, and like appliances required in order to perform its obligations hereunder.

22. Termination.

(a) This Agreement shall terminate upon expiration of the Term of this Agreement or upon an earlier termination of the Franchise Agreement, or as otherwise provided in this Section. In addition, the termination provisions of the Franchise Agreement are hereby incorporated into this Agreement and shall apply to Seller's performance under and compliance with the terms and conditions of this Agreement.

(b) Without limiting the foregoing, this Agreement may be terminated by Seller upon written notice if Purchaser fails to cure the default within 30 days (or any other time period noted in this Agreement) of receiving a notice of default for the following reasons: (i) if Purchaser fails to pay in a timely manner any sums when due hereunder within 5 days of receiving notice of default; (ii) if Purchaser defaults in any of its obligations under this Agreement; (iii) under other circumstances described as causes for termination by Seller elsewhere in this Agreement; (iv) if Purchaser fails to purchase at least 75% of the minimum volume requirements contained in the attached Commodity Schedule(s); or (v) if Purchaser fails to maintain an inventory of any one or more grades of motor fuel covered by this Agreement in an amount adequate to meet customer demand.

(c) For avoidance of doubt, upon the expiration of the Term hereof or upon earlier termination hereof, Purchaser shall comply with all post-termination/post-expiration obligations set forth in the Franchise Agreement, and Seller shall have the right to purchase the Business Assets (as defined in the Franchise Agreement) pursuant to the terms of the Franchise Agreement. In addition, Purchaser understands and agrees that Seller is relying upon Purchaser to purchase the minimum volume of motor fuel product set forth in paragraph 3 above and the applicable Commodity Schedule(s) attached hereto, and that any breach or repudiation of this Agreement, or other failure to purchase those

minimum volumes of motor fuel product by Purchaser will result in serious losses to Seller. Purchaser and Seller acknowledge that the amount of such losses is, and will be, difficult to determine. Therefore, Purchaser agrees that in the event of a termination of this Agreement Purchaser shall pay unto Seller, as liquidated damages, and not as a penalty, the greater of: (i) three and one-half cents (\$0.035) per gallon multiplied by the minimum monthly volume in gasoline and diesel gallons set forth in paragraph 3 above and the applicable Commodity Schedule(s) attached hereto multiplied by the lesser of: a) 48 months or b) the number of months remaining under the Term of this Agreement, or (ii) three and one-half cents (\$0.035) per gallon multiplied by the average monthly volume in gasoline and diesel gallons actually purchased by Purchaser (calculated for the period starting on the date of commencement of the Term and continuing until the date of termination or repudiation, as the case may be) multiplied by the lesser of: a) 48 months or b) the number of months remaining under the Term of this Agreement. The provisions of this Section 21 do not apply if the Agreement expires at the end of its initial Term or is terminated due to (i) Purchaser's (or if Purchaser is an entity, Purchaser's principal equity holder's) death; (ii) Purchaser's (or if Purchaser is an entity, Purchaser principal equity holder's) incapacity for at least 90 consecutive days, in either case which event results in Purchaser's (or if Purchaser is an entity, Purchaser's principal equity holder's) inability to personally operate the business hereunder; (iii) condemnation or other taking, in whole or in part, of the Franchised Location due to eminent domain; (iv) destruction of all or a substantial part of the Franchised Location through no fault of Purchaser; or (v) a determination made by Seller in good faith and in the normal course of business to withdraw from marketing in the geographical area in which the KANGAROO EXPRESS® business is located. Notwithstanding the foregoing, if a court determines that the payment under this Section 21 is unenforceable, then Seller may pursue all other available remedies, including consequential damages to the extent proved.

(d) If, upon expiration of the Term of the Agreement or any renewal thereof, and for a period of one (1) year thereafter, Purchaser receives, or has received, from a ready, willing and able seller ("Proposed Supplier"), a bona fide offer (the "Offer") to sell or supply motor fuels to Purchaser for resale at the Premises, and Purchaser at that time is ready and willing to accept said Offer, Purchaser shall give Seller written notice ("Notice"), setting forth the name and address of the Proposed Supplier, and the terms of said Offer. Such Notice shall be accompanied by Purchaser's verified affidavit that the proposed Offer is a good faith offer.

Seller's rights described herein shall apply to any bona fide Offer to sell motor fuel products received by Purchaser, irrespective of whether such offer is written or oral and irrespective of the duration or terms of such offer.

(i) Seller shall have the prior, exclusive option to match any such Offer. Seller shall exercise its option by notifying the Purchaser, in writing, of its decision to do so within thirty (30) days of Seller's receipt of the Notice (the "Election Period"), in which event Purchaser shall then execute a motor fuel supply agreement with Seller that shall contain the terms of the Offer, subject to the terms contained in this Section 21(d). If Seller does not exercise its option within the Election Period, Seller shall be deemed to have elected not to exercise said option. If Purchaser does not thereafter accept the Offer from the Proposed Supplier within 60 days of the expiration of the Election Period, Seller's rights under this Section 21(d) shall continue in full force and apply with respect to any new offer from the Proposed Supplier or from another party offering to sell or supply motor fuel products to Purchaser. Seller's failure at any time to exercise its rights under this Section 21(d) shall not affect Seller's future rights under this Section 21(d).

(ii) Seller may match the Offer by agreeing to deliver and sell to Purchaser motor fuels under a brand other than the brand contained in the Offer, on terms and conditions regarding price, quantity and equipment or other prospective investment in the Premises substantially equivalent to those presented in the Offer. Seller may meet the Offer for the delivery and sale of unbranded motor fuels by offering unbranded or branded motor fuels on terms and conditions substantially equivalent to those presented in the Offer. If the Offer, whether for branded or unbranded motor fuels, contains any special price terms or guarantees regarding price, Seller must agree to match these price terms; provided, however, that Seller shall not be required to match any price terms that Seller, in good faith, considers unlawful under applicable law and such failure to match price terms shall not constitute a failure to match the Offer. Seller shall have the right to assign its rights under this Section 21(d) to a third party.

(e) Purchaser will pay Seller all amounts due and owing under the Incentive and Amortization Agreement (attached as Exhibit 6 hereto), if any.

23. Accord. The parties to this Agreement have discussed the provisions herein and find them fair and mutually satisfactory and further agree that in all respects the provisions are reasonable and of material significance to the relationship of the parties hereunder, and that any breach of a provision by either party hereto or a failure to carry out said provisions in good faith shall conclusively be deemed to be substantial.

24. Nature of Agreement/ No Third-Party Beneficiary.

(a) In consideration of the granting and execution of this Agreement, it is understood and agreed that there shall be no contractual obligation to extend or renew the period or terms of this Agreement in any way, and the parties agree that this Agreement shall not be considered or deemed to be any form of "joint venture" or "partnership" at the Premises of Purchaser or elsewhere. This Agreement shall bind the executors, administrators, personal representatives, permitted assigns, and successors of the respective parties.

(b) This Agreement is personal to the Purchaser and is intended for the sole use and benefit of Seller and Purchaser. Nothing contained herein shall be deemed, interpreted, or construed to create, or express any intent to create, third party beneficiary rights in favor of any person or entity, except for any indemnified party (or other person entitled to be indemnified pursuant to this Agreement), and Seller and Purchaser specifically state and agree that no such intent exists.

25. Compliance with Laws.

(a) Purchaser shall comply with all laws, statutes, regulations, ordinances, and rules of all applicable governmental authorities with respect to the operation of its business at the Premises, including without limitation all applicable laws and regulations regarding weights and measures. As between Purchaser and Seller, Purchaser is solely responsible for the safety and well-being of its employees and the customers of the business operated at the Premises.

(b) Both parties expressly agree that it is the intention of neither party to violate statutory or common law and that if any section, sentence, paragraph, clause or combination of same is in violation of any law, such sentences, paragraphs, clauses or combination of same shall be inoperative and the remainder of this Agreement shall remain binding upon the parties hereto.

26. Express Warranties. Seller warrants that, at the time of delivery, (i) the product(s) supplied hereunder will conform to the promises and affirmations of fact made in Seller's current technical literature and printed advertisements, if any, related specifically to such product(s); (ii) that it will convey good title to the product(s) supplied hereunder, free of all liens, and (iii) the product(s) supplied hereunder meet such specifications as have been expressly made a part of this Agreement. THE FOREGOING WARRANTIES ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, WHETHER WRITTEN, ORAL OR IMPLIED. THE WARRANTY OF MERCHANTABILITY, IN OTHER RESPECTS THAN EXPRESSLY SET FORTH HEREIN, AND WARRANTY OF FITNESS FOR PARTICULAR PURPOSE, IN OTHER RESPECTS THAN EXPRESSLY SET FORTH HEREIN, ARE EXPRESSLY EXCLUDED AND DISCLAIMED.

27. Non-Exclusive Territory. Nothing in this Agreement grants Purchaser an exclusive territory to market or resell any motor fuel or motor fuel products purchased from Seller hereunder. Seller reserves the right to market or sell, and authorize others to market or sell, motor fuel or motor fuel products in any manner Seller chooses, including through its own retail outlets or through designated wholesalers or other retailers.

28. Confidential Information. The confidentiality obligations of the Franchise Agreement apply to any nonpublic information received by or made available to Purchaser hereunder.

29. Purchaser's Insurance Requirements.

(a) Purchaser shall, at its sole expense, obtain insurance from a reputable insurance carrier authorized to do business in the state in which the Premises is located providing full and continuous coverage for the full Term and all renewal periods thereof equivalent to the: (i) Comprehensive General Liability Insurance covering the Premises, all operations at the Premises, products completed operations liability, products liability, contractual liability, fire, explosion and collapse liability, as well as coverage on all contractor's equipment (other than motor vehicles licensed for highway use) owned, hired, or used in connection with this Agreement, bodily injury, and property damage, with minimum limits of at least \$1,000,000 per occurrence, and an aggregate coverage of no less than \$2,000,000; (ii) if Purchaser operates, or permits the operation of, a service bay and/or car wash on the Premises, Legal Liability Insurance covering fire, theft or collision, with a minimum limit of \$500,000 per occurrence and coverage in the general aggregate amount of no less than \$1,000,000; (iii) Automobile Liability Insurance, covering all owned, hired or otherwise operated non-owned automobiles, for death of or injury to any one person and liabilities for loss of or damage to property resulting from any one accident with a combined single limit of not less than \$1,000,000 per occurrence, including MCS 90 endorsement or other acceptable evidence of financial responsibility as required by the Motor Carrier Act of 1980 and the Pollution Liability Broadened Coverage endorsement; (iv) Workers Compensation Insurance as required by law; (v) Employer's Liability Insurance against common law liability, in the absence of statutory liability, for employee bodily injury arising out of the master-servant relationship with a coverage limit of the greater of such amount required by law or \$500,000 per occurrence; and (vi) environmental pollution/impairment insurance coverage in an amount of at least \$1,000,000 on a continuous and uninterrupted basis insuring Purchaser for all environmental liabilities arising out of, but not limited to, the storage, handling, dispensing, and/or sale of motor fuel products and lubricants at the Premises, and/or the ownership and operation of Purchaser's business at the Premises. Such environmental/pollution impairment coverage shall extend at least two (2) years beyond the expiration, termination, or nonrenewal of this Agreement. Purchaser may meet the requirements for environmental pollution/impairment coverage for underground storage tanks by participating in the federal Environmental Protection Agency ("EPA") approved state financial assurance fund or other EPA approved method to demonstrate financial responsibility or by satisfying any of the other financial assurance test requirements of the EPA's Financial Responsibility Regulations (40 CFR Part 280).

(b) Purchaser understands and agrees that any insurance coverage purchased by Seller shall not contribute to Purchaser's coverage requirements under subparagraph (a) above. All insurance policies covered by subparagraph (a) will name Seller and its affiliates as additional insured and will be primary as to any other existing, valid and collectible insurance. All such insurance shall contain provisions whereby the insurer releases all rights of subrogation against Seller. The foregoing requirements are minimum insurance requirements only and may or may not adequately meet the entire insurance needs of Purchaser. Seller may require Purchaser to carry additional types and amounts of insurance coverage, including modifications to any existing insurance required under subparagraph (a) above. Each policy or policies shall provide that the liability coverage afforded applies separately to each insured against whom a claim is brought as though a separate policy had been issued to each insured. If Seller so requires, Purchaser shall furnish Seller with certificates of such insurance that provide that coverage will not be canceled or materially changed prior to 30 days' advance written notice to Seller. The insurance required hereunder in no way limits or restricts Purchaser's obligations under the law or this Agreement as to indemnification of Seller. If Purchaser fails to obtain insurance coverage meeting the minimum requirements outlined above, Seller may, but is not obligated to, obtain insurance coverage on Purchaser's behalf and Purchaser must reimburse Seller for all costs and expenses it incurred to obtain insurance coverage.

30. Entire Agreement; Modifications. This Agreement and all exhibits hereto constitute the entire agreement between the parties and cancel and supersede all prior written and unwritten agreements, attachments, schedules, appendices, amendments, promises, and understandings between the parties pertaining to the matters covered under this Agreement, except any indebtedness owed to Seller by Purchaser, and is a final, complete and exclusive statement of the agreement between Seller and Purchaser. Nothing in this or in any related agreement, however, is intended to disclaim the representations made in the Franchise Disclosure Document that Seller provided to Purchaser. No amendment, deletion, modification, or alteration to this Agreement shall have any effect unless and until made in writing and signed by an authorized representative of Seller and by Purchaser.

31. Damages. NO CLAIM SHALL BE MADE UNDER THIS AGREEMENT FOR SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, EXCEPT AS PROVIDED OTHERWISE BY LAW.

32. Commencement. This Agreement or any modification thereof shall not be binding upon Seller until signed on its behalf by an authorized representative of Seller. Commencement of performance hereunder prior to signing as above stipulated in no case shall be construed as a waiver by Seller of this requirement.

33. Survivorship. To the extent, but only to the extent, that any provision of applicable state law requires Seller to permit the succession of the rights and obligations hereunder to a designated family member of Purchaser upon Purchaser's death, such provision is incorporated herein by reference. In the absence of such provision, the terms of the Franchise Agreement shall govern in such circumstances.

34. Joint and Several Obligations. All acknowledgments, representations, warranties, debts, and obligations of performance of Purchaser under this Agreement are made, and binding on, all those signing this Agreement jointly and severally as the Purchaser.

35. Seller's Equitable Remedies/Attorneys' Fees.

(a) Purchaser agrees that money damages may not be a sufficient remedy for the breach of this Agreement and that, therefore, in addition to all remedies available at law, Seller shall be entitled to specific performance, injunctive relief, declaratory judgment and/or other equitable remedies, as appropriate. Purchaser shall waive any requirement for the posting of bond in conjunction with Seller's effort to seek equitable remedies.

(b) It is hereby agreed to and understood by the parties to this Agreement that Seller shall be entitled to recover from Purchaser all reasonable attorneys' fees and other legal costs incurred by Seller to secure or protect its rights under this Agreement or to enforce the terms thereof, whether at law or in equity. Seller shall also be entitled to reimbursement by Purchaser for all attorney's fees and litigation expenses incurred to enforce any termination of this Agreement.

(c) Seller's termination of this Agreement shall not prejudice Seller's right to seek monetary damages or equitable relief against Purchaser. All powers and remedies available at law and in equity, including the right to terminate this Agreement, shall be cumulative and not exclusive of any other powers and remedies available by virtue of this Agreement, and no delay or omission of Seller in exercising any right or power accruing upon any breach of, or default under any provision of this Agreement shall impair any other or subsequent breach or impair any rights or remedies consequent thereto.

36. Dispute Resolution; Venue. The dispute resolution and venue procedures set forth in the Franchise Agreement (including Article 18 of the Franchise Agreement) apply to any dispute between Seller and Purchaser relating to this Agreement or the parties' relationship hereunder and are hereby incorporated by reference herein.

37. Choice of Law. Except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. §1051 et seq.), and the Federal Arbitration Act (9 U.S.C. § 1, et seq.) this Agreement and the relationship between Purchaser and Seller will be governed by the laws of the State of Arizona. Purchaser and Seller understand, acknowledge, and agree that the Petroleum Marketing Practices Act, 15 U.S.C. Section 2801 et seq., does not apply to this Agreement or the relationship of the parties hereto.

38. Personal Guaranty. Each owner or general partner of Purchaser if Purchaser is a corporation, limited liability company, partnership or other legal entity, must sign a Personal Guaranty in the form attached to the Franchise Agreement, which Personal Guaranty shall apply to Purchaser's obligations under this Agreement.

*[Signature page follows.]*

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (the "Effective Date").

SELLER: TMC Franchise Corporation

PURCHASER: \_\_\_\_\_

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

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

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

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

**MOTOR FUEL AGREEMENT - COMMODITY SCHEDULE**

PURCHASER: \_\_\_\_\_  
DELIVERY POINT: The Premises  
DATE: \_\_\_\_\_

NO: [Assigned Site Number]  
PRODUCT: [Gasoline or Diesel]  
GRADE: 1

This Commodity Schedule is attached to, and made a part of, the Motor Fuel Agreement (the "Agreement") between Purchaser and Seller entered into concurrently herewith. Unless otherwise indicated, the capitalized terms used in this Commodity Schedule shall have the same meaning used in the Agreement.

1. Quantity. Except as otherwise provided in the Agreement, the quantity of product covered by this Commodity Schedule shall be all Purchaser's requirements from the Effective Date of the Agreement to the expiration of the Agreement in monthly and annual minimum and maximum quantities hereinafter specified.

Monthly Quantity: (Minimum): \_\_\_\_\_ and (Maximum): \_\_\_\_\_  
Annual Quantity: (Minimum): \_\_\_\_\_ and (Maximum): \_\_\_\_\_

2. Delivery; Title; Risk of Loss. Where delivery is made to Purchaser's business location, delivery shall be complete on unloading of the tank wagon or transport truck. Where delivery is made into equipment furnished by Purchaser, delivery shall be complete at the point of loading of such equipment. Title to product and risk of loss of product shall pass to Purchaser upon delivery of product.

3. Inspection. Purchaser shall have the right, at its expense, to have an inspection made at delivery point, provided such inspection shall not delay shipment. Should Purchaser fail to make inspection, it shall accept Seller's inspection and measurement.

4. Price. The price per gallon to be paid by Purchaser shall be \_\_\_\_\_. The price per gallon is based upon the delivery of a full transport truckload of product. Delivery of a quantity of product less than a full transport truckload shall be subject to an additional charge. All prices charged by Seller are subject to the provisions of applicable law. Any complete or partial loads turned away from Purchaser's location because they would not fit in available storage may incur additional pass-through costs. Additionally, if Purchaser requests a delivery of product at a time earlier than the established delivery schedule, Seller may charge Purchaser any additional pass-through costs.

ACCEPTED:

SELLER: TMC Franchise Corporation

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

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

ACCEPTED:

PURCHASER: \_\_\_\_\_

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

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

Exhibit 1 to Motor Fuel Agreement

**SECURITY DEPOSIT AGREEMENT**

This Security Deposit Agreement (“Agreement”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ between \_\_\_\_\_, with a business address of \_\_\_\_\_ (“Purchaser”) and TMC Franchise Corporation, an Arizona corporation, with a business address of 1130 West Warner Road, Tempe, Arizona 85284 (“TMC”). All capitalized terms not defined in this Agreement will have the meanings ascribed to them in the Motor Fuel Agreement (defined below).

**WITNESSETH:**

WHEREAS, Purchaser and TMC are parties to the KANGAROO EXPRESS® Motor Fuel Agreement identified below for the supply of motor fuel products to one or more retail service stations owned and/or operated by Purchaser; and

WHEREAS, TMC requires Purchaser to deposit with TMC a security deposit to secure Purchaser’s performance under the Motor Fuel Agreement; and

WHEREAS, Purchaser agrees to deposit with TMC a security deposit pursuant to the terms and conditions contained in this Agreement.

NOW THEREFORE, as an inducement to TMC to enter into the Motor Fuel Agreement and for other good and valuable consideration, the receipt and sufficiency of which Seller and Purchaser hereby acknowledge, the parties agree as follows:

1. Pursuant to the terms contained in this Agreement, Purchaser hereby deposits with TMC the amount set forth below (the “Security Deposit Amount”) to secure Purchaser’s full and faithful payment of all sums of money under, and performance and observance of all the terms, covenants, and conditions contained in the following Motor Fuel Agreement:

(i) Motor Fuel Agreement between \_\_\_\_\_ and TMC, dated \_\_\_\_\_, Security Deposit Amount: \$\_\_\_\_\_.

Purchaser understands and agrees that TMC will hold the Security Deposit Amount in a non-interest-bearing account (“Security Deposit Account”).

2. The parties hereto expressly covenant and agree that the Security Deposit Amount is not an advance payment, or on account, of any amounts due and owing under the Motor Fuel Agreement or any part or installment thereof, or a measure of TMC’s liquidated or unliquidated damages. Purchaser agrees that, if Purchaser fails to timely pay any amount due and owing under the Motor Fuel Agreement, TMC may, without obligation to do so, draw upon the Security Deposit Account and apply the funds contained therein toward the payment of any amount that remains due and owing. If TMC draws upon the Security Deposit Account to apply such funds to the payment of any amount due and owing, Purchaser shall immediately deposit with TMC an amount sufficient to restore the amount contained in the Security Deposit Account to the amount noted in paragraph 1 above.

3. Upon the termination, nonrenewal, or expiration of the Motor Fuel Agreement identified in paragraph 1, TMC will: (a) have the right, but not the obligation, to draw upon the Security Deposit Account to make good any past due amounts, loss, damage, injury, or liability caused by Purchaser’s failure to perform any condition, covenant, or term of, or make any payment under, the Motor Fuel Agreement; and (b) return the balance of the Security Deposit Amount relating to the terminated or expired Motor Fuel Agreement to Purchaser within a reasonable period after such termination, nonrenewal, or expiration. Purchaser

understands and agrees that it is reasonable for TMC to continue to retain the balance of the Security Deposit Amount for a period of \_\_\_\_\_ months after said termination, nonrenewal, or expiration.

4. If TMC draws upon the Security Deposit Account as permitted under this Agreement, TMC may do so without prejudice to any other rights it may have under the Motor Fuel Agreement, the law, or in equity.

5. The Agreement shall become effective on the date first written above and shall remain in effect until the termination or expiration of the Motor Fuel Agreement listed in paragraph 1 above and Purchaser's payment of all obligations required under this Agreement.

6. It is hereby agreed to and understood by the parties to this Agreement that TMC will be entitled to recover from Purchaser all reasonable attorneys' fees and other legal costs incurred by TMC to secure or protect its rights under this Agreement or to enforce the terms thereof, whether at law or in equity.

TMC:  
TMC FRANCHISE CORPORATION

PURCHASER:  
\_\_\_\_\_

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

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

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

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

Exhibit 2 to Motor Fuel Agreement

**CREDIT NETWORK AGREEMENT**

[Attached as Exhibit 6 to the Franchise Agreement]

Exhibit 3 to Motor Fuel Agreement

**INCENTIVE AND AMORTIZATION AGREEMENT**

This Incentive and Amortization Agreement (the "Agreement") is entered into as of the Effective Date (as set forth on the signature page hereto) by and between TMC Franchise Corporation ("Seller"), and \_\_\_\_\_ ("Purchaser"). All capitalized terms used but not defined in this Agreement will have the meanings ascribed to them in the Motor Fuel Agreement (defined below).

RECITALS

WHEREAS, concurrently herewith, Seller and Purchaser are entering into a Motor Fuel Agreement (the "Motor Fuel Agreement"), pursuant to which Purchaser has agreed to purchase certain motor fuel products from Seller to offer for sale to the public at the Premises (as defined in the Motor Fuel Agreement); and

WHEREAS, Seller's trademarks and/or other brand identification elements under which motor fuel is marketed under the Motor Fuel Agreement are hereinafter collectively referred to as the "Proprietary Marks"; and

WHEREAS, Purchaser desires that the Premises be imaged under Seller's Proprietary Marks pursuant to the terms and conditions contained in the Motor Fuel Agreement and pursuant to Seller's image and appearance standards ("Image Standards"); and

WHEREAS, Purchaser desires to receive from Seller, and Seller is willing to pay Purchaser, certain amounts pursuant to the terms and conditions contained herein to bring the Premises into compliance with Seller's Image Standards and/or promote the sale of motor fuel under the Proprietary Marks at the Premises.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the sufficiency of which Seller and Purchaser hereby acknowledge, the parties agree as follows:

1. INCENTIVE AMOUNTS. Seller agrees to pay unto Purchaser those incentive amounts, and only those incentive amounts, for which both Seller and Purchaser have initialed the spaces below, each of which shall be subject to the following applicable terms and conditions:

(a) Competitive Allowance. The terms of this paragraph 1(a) shall apply only if the following blanks are initialed by both Seller and Purchaser:

\_\_\_\_\_  
Seller's Initials

\_\_\_\_\_  
Purchaser's Initials

(i) By their initials in the space provided above for application of this paragraph 1(a) and their execution of this Agreement, Seller and Purchaser agree as follows. Seller agrees to pay unto Purchaser the competitive allowance specified in the Incentive Amounts Schedule, attached hereto and made a part hereof, for each gallon of product purchased from Seller

under the Motor Fuel Agreement (said competitive allowance referred to herein as the “Competitive Allowance”).

(ii) Seller agrees to pay unto Purchaser the amount equal to the Competitive Allowance set forth in the Incentive Amounts Schedule, provided that, as of the time each such payment is due from Seller to Purchaser as set forth in the Incentive Amounts Schedule, Purchaser has satisfied those conditions contained in paragraph 1(c) and in the Incentive Amounts Schedule.

(iii) Seller may, at any time, in its sole discretion and upon thirty (30) days’ prior written notice, modify the Competitive Allowance amount payable hereunder or terminate the obligation to make any further Competitive Allowance payment to Purchaser without any liability to Purchaser. If the Motor Fuel Agreement or this Agreement is terminated or not renewed, Seller’s obligation to pay, and Purchaser’s entitlement to receive, the Competitive Allowance shall immediately terminate or expire, without notice, concurrently therewith.

(iv) Purchaser shall not be obligated to reimburse to Seller the Competitive Allowance, or any portion thereof, received from Seller.

(b) Conversion/Improvement Amount. The terms of this paragraph 1(b) shall apply only if the following blanks are initialed by both Seller and Purchaser:

\_\_\_\_\_  
Seller’s Initials

\_\_\_\_\_  
Purchaser’s Initials

(i) By their initials in the space provided above for application of this paragraph 1(b) and their execution of this Agreement, Seller and Purchaser agree as follows. Seller agrees to loan Purchaser the “Conversion Amount” and/or the “Improvement Amount” (collectively, the “Conversion/Improvement Amount”), as defined in subparagraph (ii) below. Purchaser desires to make certain improvements at the Premises as set forth more fully in the Conversion/Improvements Schedule attached hereto and made a part hereof (the “Improvements”) and/or desires to convert the Premises to Seller’s requirements for marketing motor fuel under the Proprietary Marks, including Seller’s Image Standards (such conversion hereinafter referred to as the “Conversion”). The “Conversion” shall include, without limitation, the implementation, installation, and performance of the items set forth in the Conversion/Improvements Schedule attached hereto and incorporated herein.

(ii) Seller agrees to loan Purchaser: (A) an improvement amount equal to the Improvement Amount set forth in the Incentive Amounts Schedule (said amount is the “Improvement Amount”) for the sole purposes of constructing, installing and implementing the Improvements, provided that the Improvements conform with Seller’s Image Standards; and/or (B) a conversion amount equal to the Conversion Amount set forth in the Incentive Amounts Schedule (said amount is the “Conversion Amount”) to assist Purchaser in implementing the Conversion. Seller’s obligation to disburse unto Purchaser the Conversion/Improvement Amount is conditioned upon Purchaser’s satisfaction, at the time such disbursement is due by Seller to Purchaser as set forth in the Incentive Amounts Schedule, of all of the following conditions and the conditions contained in paragraph 1(c) below:

(A) Purchaser shall have obtained, and provided to Seller written verification reasonably satisfactory to Seller that Purchaser has obtained, all approvals,

permits, licenses, entitlements, and consents required to make the Improvements and/or Conversion.

(B) Purchaser shall have duly executed and delivered to Seller (1) a promissory note in substantially the form attached hereto as Exhibit A and incorporated herein, in a principal amount equal to the Conversion/Improvement Amount (“Note”), and (2) a Security Agreement and Personal Guaranty in substantially the form attached to the Franchise Disclosure Document as Exhibit K.

(C) Purchaser shall have provided Seller with reasonable proof the Purchaser has entered into all agreements using only Seller approved contractors and other third parties necessary for Purchaser to construct and install and/or make, at Purchaser’s sole expense, the Improvements and/or Conversion set forth in the Conversion/Improvements Schedule.

(D) Purchaser shall expend the Conversion/Improvement Amount solely for the purposes of constructing, installing and implementing the Improvements and/or performing the Conversion. Upon demand by Seller, Purchaser shall provide any documentation reasonably required by Seller to substantiate the expenditure of the Conversion/Improvement Amount for the purposes herein stated, including, without limitation, proof of payment for third-party invoices and related lien releases for work and materials for the Improvements and/or Conversion.

(iii) Purchaser shall complete the Improvements and/or Conversion to the reasonable satisfaction of Seller no later than \_\_\_\_\_, 20\_\_\_\_ (the “Completion Deadline”). Within ten (10) days after Purchaser’s completion of the Improvements and/or Conversion, but in no event later than the Completion Deadline, Purchaser shall request Seller’s inspection and approval of the Improvements and/or Conversion. Upon Seller’s verification that the Improvements and/or Conversion have been constructed in conformance and in compliance with Seller’s Image Standards, Seller shall notify Purchaser in writing of Seller’s approval thereof.

(iv) Seller shall notify Purchaser in writing of any failure(s) of the Improvements and/or Conversion to comply with Seller’s Image Standards (a “Non-Compliance Notice”) and Purchaser shall, within \_\_\_\_\_ ( \_\_\_ ) days after its receipt of Seller’s Non-Compliance Notice: (A) perform any work and/or any additional construction, installation, or modification necessary to remedy the non-compliance identified in Seller’s Non-Compliance Notice and to bring the Improvements and/or Conversion into compliance with Seller’s Image Standards and (B) request that Seller re-inspect the Improvements and/or Conversion. If, Purchaser fails to meet the Completion Deadline, does not timely remedy all of the failures identified in Seller’s Non-Compliance Notice, or has otherwise not timely and properly completed the Improvements and/or Conversion so that they meet all of Seller’s Image Standards, then the Total Unforgiven Repayment (as defined in paragraph 2(c) below) shall become immediately due and payable, in full, to Seller, as further set forth in paragraph 2 below. Seller’s inspections and notices to Purchaser hereunder shall be limited to Seller’s verification that the Improvements and/or Conversion comply with Seller’s Image Standards and Purchaser shall be solely responsible for, and shall indemnify, defend, and hold Seller and Seller’s employees, agents and representatives harmless pursuant to paragraph 1(d) below, with respect to any claim with respect to, the compliance of the Improvements and/or Conversion with all applicable laws, regulations, ordinances, codes, approvals, permits, licenses, entitlements, and consents.

(c) Additional Conditions. The following are additional conditions for [Seller's obligation to pay unto Purchaser, and Purchaser's right to receive, the Competitive Allowance / Seller's obligation to lend and disburse to Purchaser, and Purchaser's right to receive, the Conversion/Improvement Amount]. Purchaser's breach of or failure to satisfy any of the following conditions after Seller has disbursed the Conversion/Improvement Amount to Purchaser shall constitute an Acceleration Event (as defined in paragraph 2(c) below):

(i) The Premises shall be approved by Seller for marketing motor fuel under the Proprietary Marks.

(ii) The Motor Fuel Agreement must be current (unexpired) and in effect.

(iii) Purchaser shall not be in default of any provision of this Agreement, the Motor Fuel Agreement, the Security, or any other related or supplemental agreement with Seller including, without limitation, any provision therein requiring timely payment to Seller.

(iv) Purchaser shall comply, and cause the Premises to comply, with Seller's Image Standards throughout the term of this Agreement; provided, however, that with respect to Conversion/Improvement Amount, this obligation shall only apply after Seller has approved the Improvements and/or Conversion as complying with Seller's Image Standards pursuant to paragraph 1(b) above.

(v) Purchaser shall pay when due all income and other tax, if any, associated with the [Competitive Allowance payments / loan of the Conversion/Improvement Amount] under this Agreement.

(d) Indemnity. SELLER, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND REPRESENTATIVES ("SELLER INDEMNIFIED PARTIES"), SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, INJURIES, OR ANY CASUALTY OF WHATSOEVER KIND OR BY WHOMEVER CAUSED, TO PERSON OR PROPERTY OF ANYONE (INCLUDING PURCHASER) ON OR OFF THE PREMISES, ARISING OUT OF, RESULTING FROM, OR CONNECTED WITH (I) THE BREACH OF THIS AGREEMENT AND/OR THE MOTOR FUEL AGREEMENT BY PURCHASER, (II) THE VIOLATION BY PURCHASER OR ANY OTHER PERSON, OF ANY FEDERAL, STATE, OR LOCAL STATUTE, LAW, REGULATION, RULE, OR ORDINANCE, OR (III) THE CONSTRUCTION, INSTALLATION, OR OTHER SIMILAR ACTIVITY, RELATED TO THE IMAGING OR IMPROVEMENT OF THE PREMISES. PURCHASER HEREBY AGREES TO INDEMNIFY, PROTECT, DEFEND, AND HOLD SELLER INDEMNIFIED PARTIES HARMLESS FROM AND AGAINST ALL LOSSES, CLAIMS, LIABILITIES, ENVIRONMENTAL CLEANUP COSTS, FINES, PENALTIES, SUITS AND ACTIONS, JUDGMENTS AND COSTS, INCLUDING ATTORNEYS' FEES AND THE COSTS OF LITIGATION, FOR ANY SUCH LOSS, DAMAGE, INJURY, OR OTHER CASUALTY, WHETHER CAUSED BY A NEGLIGENT ACT OR OMISSION OF PURCHASER OR SELLER INDEMNIFIED PARTIES. PURCHASER ACKNOWLEDGES AND AGREES TO PROVIDE SELLER WRITTEN ASSURANCE WITHIN TEN (10) DAYS FROM SELLER'S REQUEST FOR PURCHASER TO ACCEPT TENDER OF A CLAIM AND TO NOTIFY AND INSTRUCT PURCHASER'S INSURANCE CARRIERS THAT SELLER IS AN INDEMNIFIED PARTY.

2. REPAYMENT OF INCENTIVE AMOUNTS.

(a) Unless forgiven as set forth in subparagraph (b) below, Purchaser shall repay to Seller the Conversion/Improvement Amount loaned pursuant to paragraph 1(b) above, together with interest on the Conversion/Improvement Amount at the rate of \_\_\_\_\_ percent ( \_\_\_%) per annum, or the highest lawful rate of interest allowed under applicable law, if lower. All interest on the Conversion/Improvement Amount shall be compounded monthly, will accrue on a monthly basis beginning on the date Seller first disburses the Conversion/Improvement Amount (“Disbursement Date”) and will continue to accrue until the total principal of the Conversion/Improvement Amount is fully repaid or forgiven. Except as set forth in subparagraphs (b) and (c) below, the total principal of the Conversion/Improvement Amount as of the Disbursement Date, plus all accrued interest, shall become due in full upon the earlier of (i) the last day of the Term, or (ii) any earlier termination of this Agreement.

(b) Notwithstanding subparagraph (a) above, the loan of the Conversion/Improvement Amount, together with any interest accrued thereon, shall be forgiven annually at the rate set forth in the Amortization Schedule of the Incentive Amounts Schedule. The amount of the Conversion/Improvement Amount principal forgiven pursuant to this subparagraph (b) shall reduce the principal balance of the Conversion/Improvement Amount due hereunder, and the accrued interest going forward shall be calculated based on such reduced principal balance of the Conversion/Improvement Amount. The aggregate amount of Conversion/Improvement Amount principal and interest accrued thereon that is forgiven pursuant to this subparagraph (b) at any particular time is hereinafter referred to as the “Total Forgiven Amount.”

(c) Notwithstanding anything to the contrary contained herein, in the event (i) Purchaser fails to comply with any provision of this Agreement, the Motor Fuel Agreement, or any related agreement, note, contract, or instrument between the parties or in favor of Seller; (ii) the Purchaser discontinues actively marketing motor fuel at the Premises; (iii) Purchaser begins selling motor fuel at the Premises under trade names or trademarks or other brand identification other than those permissible under the Motor Fuel Agreement; (iv) Purchaser fails to comply with the image, appearance, or operational standards at the Premises set forth by Seller, including the Image Standards, which standards may from time to time be amended or modified; (v) there ceases to be a Motor Fuel Agreement in effect between Seller and Purchaser for any reason whatsoever including, without limitation, by mutual consent; (vi) Purchaser assigns or transfers its rights or interests, or any portion thereof, in this Agreement, the Motor Fuel Agreement, Purchaser’s ownership interest in or Purchaser’s lease of the Premises; (vii) if the Premises is debranded for any reason whatsoever; (viii) any representation, statement or warranty made by Purchaser to Seller in this Agreement or in connection with negotiations related to this Agreement, or in any certificate, financial statement or document delivered pursuant to this Agreement proves to be incorrect, untrue or misleading in any material respect when made or deemed made; (ix) Purchaser becomes insolvent, or admits its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors, or applies for or is subject to the appointment of a receiver or trustee for it or a substantial part of its property or business, or initiates bankruptcy, insolvency, reorganization or liquidation proceedings or other proceedings for relief under any bankruptcy law, or any such proceedings are initiated against Purchaser; or (x) any order, judgment or decree is entered against Purchaser decreeing its dissolution, or Purchaser’s existence is otherwise terminated (any such aforementioned event is hereinafter referred to as an "Acceleration Event"), then on the date of the occurrence of an Acceleration Event (“Acceleration Date”), the parties’ respective rights and obligations with respect to forgiveness of the principal balance of the Conversion/Improvement Amount and interest accrued thereon shall automatically cease as of the Acceleration Date. Further, upon the occurrence of an Acceleration Event, the total principal of

the Conversion/Improvement Amount as of the Disbursement Date and all accrued interest as of the Acceleration Date, less the Total Forgiven Amount as of the Acceleration Date (“Total Unforgiven Repayment”), shall become immediately due and payable to Seller. An Acceleration Event shall not affect any forgiveness of the Total Forgiven Amount prior to the Acceleration Date.

(d) Seller shall have all legal and equitable remedies available to Seller with respect an Acceleration Event, whether under this Agreement, the Motor Fuel Agreement, the Security, or applicable law, and Seller may pursue same in any order or priority in Seller’s sole discretion. Without limiting the foregoing, Seller’s remedies shall include (i) the right to set-off or equitably recoup against any amount then due Purchaser under this Agreement, the Motor Fuel Agreement, or any other related agreement, instrument, note, or contract between Purchaser and Seller, and (ii) the right to terminate this Agreement in its entirety, effective in Seller’s sole discretion on or at any time after the Acceleration Date, in which case the Total Unforgiven Repayment and any other amounts owed by Purchaser to Seller under this Agreement, the Motor Fuel Agreement, the Security or any other any other related agreement, instrument, note, or contract between Purchaser and Seller, shall become immediately due and payable by Purchaser to Seller. Upon termination of this Agreement pursuant to this subparagraph (d), interest shall accrue on all such amounts at the rate of eighteen percent (18%) per annum, compounded monthly, or at the highest lawful rate of interest authorized under \_\_\_\_\_ state law, whichever amount is lower, accruing from the date Seller terminates this Agreement until paid in full.

(e) Purchaser acknowledges the incentive amounts paid to Purchaser are based on Purchaser’s purchase of a minimum volume of gasoline from Seller for resale at the Premises over the Term, as set forth in the Motor Fuel Agreement (“Minimum Volume”). Accordingly, Purchaser represents and warrants that Retailer will purchase from Seller for resale at the Premises the Minimum Volume over the Term. If Purchaser, during any twelve (12) month period during the Term, the first of which shall commence on the Disbursement Date, and each such subsequent twelve (12) month period shall commence on the anniversary of such date (each an “Audit Period”), fails to purchase the Minimum Volume, Purchaser shall immediately pay unto Seller the Volume Shortfall Amount (defined below) within ten (10) days of Seller’s written demand for payment thereof. The “Volume Shortfall Amount” shall be the difference between the Minimum Volume for the Audit Period and the actual volume of gasoline purchased by Purchaser during the Audit Period, multiplied by the shortfall rate of \$ \_\_\_\_\_ per gallon of gasoline. Notwithstanding the foregoing, the aggregate Volume Shortfall Amount paid by Purchaser to Seller (excluding any interest accrued thereon for late payment) at any time hereunder shall not exceed the Total Forgiven Amount as of the date of payment of a Volume Shortfall Amount by Purchaser. Where a Volume Shortfall Amount is due and owing and is not paid in full within thirty (30) days of Seller’s demand for said Volume Shortfall Amount, then interest shall accrue on the balance of any such sums or amounts remaining due and owing after such thirty (30) day period at the rate of eighteen percent (18%) per annum, compounded monthly, or at the highest lawful rate of interest authorized under \_\_\_\_\_ state law, whichever amount is lower.

3. SECURITY. That certain Security Agreement, dated \_\_\_\_\_, 20\_\_\_\_, by and between Purchaser and Seller (the “Security Agreement”) and those additional security instruments or agreements listed in Exhibit B (collectively, the “Security”) shall secure the Note and all of Purchaser’s obligations under this Agreement. In addition, Seller reserves the right, in its sole discretion, either as a condition precedent to Seller’s obligation to pay to Purchaser the Conversion/Improvement Amount, or any portions thereof, or at any other time during the Term, to require a security deposit, letter of credit, personal guaranty, deed of trust, leasehold deed of trust, and/or other instrument to secure Purchaser’s obligations under this Agreement. Upon Seller’s requirement thereof, any additional

security deposit, letter of credit, personal guaranty, deed of trust, leasehold deed of trust, and/or other instrument shall be added to the Security listed in Exhibit B.

4. INSPECTION AND AUDIT. Within ten (10) business days after Seller's request therefore, Purchaser shall provide Seller with information and documentation relating to Purchaser's financial condition and creditworthiness. Purchaser shall permit Seller, and their respective representatives to inspect sales records for the Premises and shall allow an independent auditor to review monthly sales figures to validate actual product sold at the Premises, whether pertaining to the Audit Period under paragraph 2(e) or otherwise. Purchaser further agrees to permit any and all such inspections of the Premises by Seller, and their respective representatives that are required under the Motor Fuel Agreement.

5. ATTORNEY'S FEES. To the fullest extent permitted by law, the prevailing party shall be entitled to all attorneys' fees, costs of suit and reasonable expenses incurred in order to secure, defend or protect the rights inuring to the prevailing party under this Agreement, or to enforce the terms thereof, in addition to any other relief to which the prevailing party may be entitled.

6. TERM; TERMINATION.

(a) The term of this Agreement ("Term") shall be effective commencing on the Effective Date (as defined on the signature page hereto) and shall remain in effect for the same term (including any extensions or renewals thereof) as the Kangaroo Express® Motor Fuel Agreement between Seller and Purchaser entered into concurrently herewith (the "Motor Fuel Agreement"), unless earlier terminated in accordance with the terms of this Agreement.

(b) Upon the occurrence of an Acceleration Event, Seller shall have the right to terminate this Agreement in its entirety, as further set forth in paragraph 2(d) above. Notwithstanding the termination of this Agreement, Purchaser shall continue to be liable for all amounts owing to Seller under this Agreement, including but not limited to the Total Unforgiven Repayment, as further set forth in paragraph 2 above.

7. CONFIDENTIALITY AGREEMENT.

(a) Purchaser acknowledges and understands that the contents of this Agreement are confidential ("Confidential Information") and that Seller desires that the confidentiality of said contents be maintained. Except where otherwise required by law, Purchaser shall: (i) treat and maintain the Confidential Information as confidential; (ii) restrict disclosure of Confidential Information only to Purchaser and those officers, directors, employees, accountants, or attorneys of Purchaser who require disclosure to advise Purchaser with respect to the Confidential Information or prepare or maintain Purchaser's financial records and are directly connected with providing such advice or preparing or maintaining Purchaser's financial records; and (iii) not disclose any Confidential Information to any other person not permitted hereunder including, without limitation, any competitor or other person that Purchaser reasonably knows to be a competitor, of Seller.

(b) Purchaser acknowledges that Seller would be irreparably injured if Purchaser commits a breach of any of its obligations under this paragraph 7. Accordingly, in the event of Purchaser's breach of this paragraph 7, Seller shall be entitled to seek an injunction and specific enforcement of this paragraph 7, in addition to any other remedy available hereunder, at law or in equity.

8. MISCELLANEOUS.

(a) Seller's failure to exercise its rights under this Agreement, including, without limitation, pursuant to paragraph 2, immediately on the occurrence of any Acceleration Event or other breach or default by Purchaser entitling it to do so shall not constitute a waiver of its rights to exercise its rights at any time before Purchaser cures its breach or default and/or pays the outstanding balance due.

(b) The remedies set forth in the Agreement are not exclusive but are cumulative and in addition to all other rights and remedies provided by law or equity including those under the Motor Fuel Agreement.

(c) Purchaser shall not transfer or assign, in whole or in part, directly or indirectly, its interest in this Agreement without the prior written consent of Seller, which Seller may withhold in its absolute discretion, and any such transfer or assignment without Seller's prior written consent shall be null and void. Purchaser acknowledges and agrees that any consent granted hereunder shall be expressly conditioned upon Purchaser remaining liable, in full, for any amounts due and owing to Seller under this Agreement. Seller may transfer or assign, in whole or in part, directly or indirectly, its interest in this Agreement.

(d) All written notices required or permitted to be given by this Agreement shall be deemed to be duly given if delivered personally or sent via certified or via a reputable, national overnight mail service, such as Federal Express, to Seller or to Purchaser, as the case may be, at the address set forth above or to such other address as may be furnished by either party to the other in writing in accordance with the provisions herein. The date of mailing shall be deemed the date of giving such notice, except for notice of change of address, which must be received to be effective.

(e) All exhibits, schedules, riders, and documents attached hereto, (collectively, "Attachments"), are hereby incorporated herein and made a part of this Agreement. This writing, and the Attachments attached hereto, is intended by the parties to be a final, complete and exclusive statement of their agreement about the matters covered herein. THERE ARE NO ORAL UNDERSTANDINGS, REPRESENTATIONS OR WARRANTIES AFFECTING IT. No amendments or alterations to this Agreement shall have any effect unless and until made in writing and signed by an authorize representative of Seller and Purchaser. EXECUTION OF THIS CONTRACT BY PURCHASER IS AN ACKNOWLEDGMENT THAT NO REPRESENTATIONS NOT SET FORTH IN WRITING HEREIN HAVE BEEN MADE OR RELIED UPON BY PURCHASER.

(f) This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona and controlling U.S. federal law, except for any rule of court or law of said state which would make the law of any other jurisdiction applicable.

(g) Purchaser shall execute and deliver any and all additional papers, documents, and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of its obligations hereunder and to carry out the intent of this Agreement.

(h) Purchaser's obligations to Seller under this Agreement shall survive any termination or nonrenewal of this Agreement, the Motor Fuel Agreement, or the franchise relationship between Seller and Purchaser.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (“Effective Date”).

**SELLER:**

TMC Franchise Corporation

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

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

**PURCHASER:**

\_\_\_\_\_

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

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

List of Schedules:

Incentive Amounts Schedule  
Conversion/Improvements Schedule

List of Exhibits:

A - Secured Promissory Note  
B - List of Security

INCENTIVE AND AMORTIZATION AGREEMENT - INCENTIVE AMOUNTS SCHEDULE

This Incentive Amounts Schedule is attached to the Incentive and Amortization Agreement (“Agreement”) and made a part thereof. Unless otherwise indicated, the capitalized terms used in this Incentive Amounts Schedule shall have the same meaning used in the Agreement.

Gasoline Competitive Allowance: Provided that the minimum volume of gasoline product purchased under the Motor Fuel Agreement for the applicable Allowance Period exceeds \_\_\_\_\_ (\_\_\_\_\_) gallons, Seller agrees to pay to Purchaser a Competitive Allowance in the following amounts, payable within thirty (30) days of the last day of the applicable Allowance Period:

- \_\_\_\_\_ CPG (\$0.\_\_\_\_ cents per gallon) for each gallon of gasoline product purchased under the Motor Fuel Agreement during any given Allowance Period where volume is at least \_\_\_\_\_ gallons and up to \_\_\_\_\_ gallons; or
- \_\_\_\_\_ CPG (\$0.\_\_\_\_ cents per gallon) for each gallon of gasoline product purchased under the Motor Fuel Agreement during any given Allowance Period where volume is at least \_\_\_\_\_ gallons and up to \_\_\_\_\_ gallons; or
- \_\_\_\_\_ CPG (\$0.\_\_\_\_ cents per gallon) for each gallon of gasoline product purchased under the Motor Fuel Agreement during any given Allowance Period where volume is at least \_\_\_\_\_ gallons and up to \_\_\_\_\_ gallons; or
- \_\_\_\_\_ (\$0.\_\_\_\_ cents per gallon) for each gallon of gasoline product purchased under the Motor Fuel Agreement during any given Allowance Period where volume exceeds \_\_\_\_\_ gallons.

Diesel Competitive Allowance: Provided that the minimum volume of diesel product purchased under the Motor Fuel Agreement for the applicable Allowance Period exceeds \_\_\_\_\_ (\_\_\_\_) gallons, Seller agrees to pay to Purchaser a Competitive Allowance in the following amounts, payable within thirty (30) days of the last day of the applicable Allowance Period:

- \_\_\_\_\_ CPG (\$0.\_\_\_\_ cents per gallon) for each gallon of diesel product purchased under the Motor Fuel Agreement during any given Allowance Period where volume is at least \_\_\_\_\_ gallons and up to \_\_\_\_\_ gallons; or
- \_\_\_\_\_ CPG (\$0.\_\_\_\_ cents per gallon) for each gallon of diesel product purchased under the Motor Fuel Agreement during any given Allowance Period where volume is at least \_\_\_\_\_ gallons and up to \_\_\_\_\_ gallons; or
- \_\_\_\_\_ CPG (\$0.\_\_\_\_ cents per gallon) for each gallon of diesel product purchased under the Motor Fuel Agreement during any given Allowance Period where volume is at least \_\_\_\_\_ gallons and up to \_\_\_\_\_ gallons; or
- \_\_\_\_\_ (\$0.\_\_\_\_ cents per gallon) for each gallon of diesel product purchased under the Motor Fuel Agreement during any given Allowance Period where volume exceeds \_\_\_\_\_ gallons.

For the purpose of both the Gasoline Competitive Allowance and Diesel Competitive Allowance, the term “Allowance Period” shall mean any calendar month during the Term, the first of which shall commence on the first full month after the Effective Date.

Conversion/Improvement Amount: Seller agrees to loan to Purchaser a Conversion/Improvement Amount in the amount of \$\_\_\_\_\_ to be used for the conversion of, or improvements to, the Premises, as set forth on the Conversion/Improvements Schedule. Purchaser agrees to obtain Seller's prior approval of the exterior architectural and signage plans prior to Purchaser's submission of such plans with the applicable fuel business permit applications. Further, Purchaser will be responsible for installation and maintenance of all Kangaroo Express image components, and the Conversion/Improvement Amount shall be used to reimburse Purchaser's cost of acquisition of certain equipment, other personal property, real property, and fixtures, and construction at the Premises, and for TMC to pay related invoices on Purchaser's behalf, in accordance with the Conversion/Improvements Schedule.

Amortization Schedule for Repayment of Improvement/Conversion Amount:

<u>Year In Which Acceleration Event Occurs</u>	<u>Improvement/Conversion Amount Payable to Seller</u>
1 through end of year 5	100%
6	80%
7	60%
8	40%
9	20%
10	10%

\* For the purposes of this Amortization Schedule, Year 1 shall commence on \_\_\_\_\_ and shall continue for a period of twelve (12) months thereafter. Each succeeding year shall commence on the anniversary of the commencement of Year 1. Thus, by way of example, if the Acceleration Event occurs in Year 1, then Purchaser shall repay Seller 100% of the Improvement Amount and 100% of the Conversion Amount loaned to Purchaser by Seller, as well as 100% of any interest accrued thereon. If, for example, the Acceleration Event occurs in Year 8, then Purchaser shall repay Seller 40% of the Improvement Amount and 40% of the Conversion Amount loaned to Purchaser by Seller, as well as all 40% of any interest accrued thereon.

INCENTIVE AND AMORTIZATION AGREEMENT - CONVERSION/IMPROVEMENTS  
SCHEDULE

The Conversions are set out as follows:

- \_\_\_\_\_ Brand Image on Canopy
- \_\_\_\_\_ Brand Price Sign
- \_\_\_\_\_ CRIND Installation at MPDs
- \_\_\_\_\_ MPD Decals and Valances
- \_\_\_\_\_ Pump Toppers and POP Hardware
- \_\_\_\_\_ Trash Can and Windshield Service Centers
- \_\_\_\_\_ Painting

The Improvements are set out as follows:

- \_\_\_\_\_ Canopy
  - \_\_\_\_\_ fascia
  - \_\_\_\_\_ canopy underside and columns
  - \_\_\_\_\_ LED Canopy Lighting Upgrade
- \_\_\_\_\_ Island
  - \_\_\_\_\_ White island forms and natural concrete islands
  - \_\_\_\_\_ Multi-Product Dispensers (MPD)
- \_\_\_\_\_ General Site Improvements As Follows:
  - \_\_\_\_\_ MID LED Upgrade
  - \_\_\_\_\_ Lot Resurface
  - \_\_\_\_\_ LED Upgrade for Yard Lighting
  - \_\_\_\_\_ Refresh Painting
  - \_\_\_\_\_ Other (Describe)

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I acknowledge receipt and applicability of this Conversion/Improvements Schedule

<Dealer Name>

\_\_\_\_\_  
Purchaser

Exhibit A to Incentive and Amortization Agreement

**SECURED PROMISSORY NOTE**

\_\_\_\_\_, (State) \_\_\_\_\_,  
20\_\_\_\_

Name of Maker: \_\_\_\_\_ (“**Maker**”)  
Address: \_\_\_\_\_  
Amount Owed: \$ \_\_\_\_\_  
Interest Rate: \_\_\_\_% per annum, compounded monthly

1. FOR VALUE RECEIVED, Maker promises to pay to the order of **TMC FRANCHISE CORPORATION**, an Arizona corporation (“**Payee**”), at 1130 West Warner Road, Tempe, Arizona 85284 or at such other place as may be designated in writing by Payee, all principal amounts advanced by Maker to Payee under that certain Incentive and Amortization Agreement, dated \_\_\_\_\_, 20\_\_, by and between Payee and Maker (“**Agreement**”), the maximum amount of which is \_\_\_\_\_ and \_\_\_/100 Dollars (\$ \_\_\_\_\_), together with all accrued interest thereon as provided in the Agreement, in lawful money of the United States in immediately available funds. Upon Maker’s satisfaction of the conditions therefor set forth in the Agreement, the amount payable hereunder from Maker to Payee shall be forgiven as provided in paragraph 2(b) of the Agreement. The due date and other requirements for payment of all principal and interest hereunder, less any amount thereof forgiven pursuant to paragraph 2(b) of the Agreement, shall be as provided in paragraph 2 of the Agreement.

2. This Promissory Note (“**Note**”) is the “**Note**,” as defined in paragraph 1(b)(ii)(B) of the Agreement, and is fully negotiable by Payee. Capitalized terms used herein have the meanings assigned to them in the Agreement unless otherwise defined herein. Reference is made to the Agreement for a statement of the obligations of Maker and the circumstances in which payment hereunder may be accelerated.

3. The payment of this Note is secured by that certain Security Agreement, dated \_\_\_\_\_, 201\_\_, by and between Maker and Payee (“**Security Agreement**”), together with Form UCC-1, granting Payee a security interest in and to all of Maker’s interest in the equipment, fixtures, gasoline and petroleum products in inventory, gasoline and petroleum accounts receivable, after acquired inventory, accounts owned by Maker and consigned to Payee, and contract rights located on and/or related to Maker’s retail motor fuel station business located at \_\_\_\_\_, together with all other property described in or referred to in the Security Agreement. This Note, the Security Agreement, and the Agreement are collectively referred to herein as the “**Loan Documents**.”

4. Time is of the essence hereof. In the event of any default in the payment of any amount due and payable under the Agreement or any of the other Loan Documents (a “**Default**”), then the entire amount of principal and accrued interest hereunder, less any amount thereof that has been forgiven as of the date of such Default, and all other obligations of Maker to Payee, direct or indirect, absolute or contingent, now existing or hereafter arising, shall, at the option of Payee, Exhibit H - Motor Fuel Agreement – Exhibit 3 - Incentive and Amortization Agreement – Exhibit A

become due and payable immediately, without presentment or notice, and Payee shall be authorized to exercise all of the rights and remedies provided herein, in the Loan Documents, and under the Uniform Commercial Code, as well as all other rights and remedies either at law or in equity. From and after any Default, the entire unpaid principal balance, and all unpaid interest that accrued as of the date of such Default, less any amount thereof that has been forgiven as of such date, shall automatically bear an interest at the rate of eighteen percent (18%) per annum, compounded monthly, or the highest rate of interest permitted by law.

5. No delay or failure of Payee in the exercise of any right or remedy provided for hereunder shall be deemed a waiver of such right by Payee, and no exercise of any right or remedy shall be deemed a waiver of any other right or remedy which Payee may have.

6. Maker agrees to pay the expenses incurred, including attorney's fees and costs, recording fees, filing fees, escrow fees and any other related costs in any attempt to collect any amount due pursuant to this Note or to otherwise enforce the provisions of this Note.

7. Maker agrees that if any legal action, arbitration, or other proceeding is necessary to enforce this Note or to enforce or protect the lien(s) under any of the Loan Documents, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. Such attorneys' fees shall include those incurred to enter and/or confirm any arbitration award in a court of competent jurisdiction, to prosecute or defend any appeal, and/or to enforce any judgment. This provision is applicable to the entire Note and all of the other Loan Documents.

8. All agreements between Maker and Payee are expressly limited, so that in no event or contingency, whether because of the advancement of the proceeds of this Note, acceleration of maturity of the unpaid principal balance, or otherwise, shall the amount paid or agreed to be paid to Payee for the use, forbearance, or retention of the money to be advanced under this Note exceed the highest lawful rate permissible under applicable usury laws. If, under any circumstances, fulfillment of any provision of this Note or any other agreement pertaining to this Note, after timely performance of such provision is due, shall involve exceeding the limit of validity prescribed by law that a court of competent jurisdiction deems applicable, then, ipso facto, the obligations to be fulfilled shall be reduced to the limit of such validity. If, under any circumstances, Payee shall ever receive as interest an amount that exceeds the highest lawful rate, the amount that would be excessive interest shall be applied to reduce the unpaid principal balance under this Note and not to pay interest, or, if such excessive interest exceeds the unpaid principal balance under this Note, such excess shall be refunded to Maker. This provision shall control every other provision of this Note.

9. Maker waives presentment, demand, notice of dishonor, and protest.

10. This Note shall be construed and enforceable according to the laws of the State of \_\_\_\_\_ for all purposes except when federal law applies (including, without limitation, any federal usury ceiling or other federal law preempting state usury laws, which, from time to time, is applicable to the indebtedness evidenced by this Note). The pleading of any statute of limitations as a defense to the obligations evidenced by this Note is waived to the fullest extent permissible by law. If any provision of this Note, or the application of it to any party or circumstance, is held void, invalid, or unenforceable by a court of competent jurisdiction, the remainder of this Note, and the application of such provision to other parties or circumstances, shall not be affected thereby, the provisions of this Note being severable in any such instance. Maker Exhibit H - Motor Fuel Agreement – Exhibit 3 - Incentive and Amortization Agreement – Exhibit A

represents and warrants to Payee that the proceeds of this Note will be used solely for business, commercial investment, or similar purposes, and that no portion of it will be used for personal, family, or household purposes. The parties agree that this Note and the Loan Documents are a product of their joint effort. As a result, any rules of construction, including but not limited to Civil Code section 1654 and the rule that a contract should be construed against the drafter, shall not apply.

**MAKER:**

\_\_\_\_\_

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

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

Exhibit B to Incentive and Amortization Agreement

**SECURITY AGREEMENT**

\_\_\_\_\_ (the "DEBTOR") and TMC Franchise Corporation, a wholly owned subsidiary of Circle K Stores, Inc., an Arizona corporation, and any affiliated or related companies ("TMC FRANCHISE CORPORATION") agree as follows:

**1. Definitions.** All capitalized terms used herein without definitions shall have the respective meanings provided therefor in the Franchise Agreement, Motor Fuel Agreement or Credit Agreement. In addition:

(a) The term "State," as used herein, means the State of «State\_2».

(b) All terms defined in the Uniform Commercial Code of the State and used herein shall have the same definitions herein as specified therein. However, if a term is defined in Article 9 of the Uniform Commercial Code of the State differently than in another Article of the Uniform Commercial Code of the State, the term has the meaning specified in Article 9.

(c) The term "Obligations," as used herein, means all of the indebtedness, obligations and liabilities of DEBTOR to TMC FRANCHISE CORPORATION, individually or collectively, whether direct or indirect, joint or several, absolute or contingent, due or to become due, now existing or hereafter arising in any manner or at any time, including those arising under or in respect of the Kangaroo Express Franchise Agreement entered into between TMC FRANCHISE CORPORATION and DEBTOR (the "Franchise Agreement"), Motor Fuel Agreement entered into between TMC FRANCHISE CORPORATION and DEBTOR], any agreement or agreements by which TMC FRANCHISE CORPORATION extends any funding or credit to DEBTOR, no matter how such agreement is denominated (the "Credit Agreement"), any promissory notes or other instruments or agreements executed and delivered pursuant thereto or in connection therewith or this Agreement.

(d) The term "Event of Default," as used herein, means the failure of DEBTOR to pay or perform any of the Obligations as and when due to be paid or performed under the terms of the Franchise Agreement, Motor Fuel Agreement or Credit Agreement. "Event of Default" also includes, but is not limited to, the following: (i) TMC FRANCHISE CORPORATION does not have a first priority purchase money security interest in the Collateral or a first priority security interest in the Collateral, as the case may be; (ii) DEBTOR fails to obtain and/or maintain any governmental permits or licenses for DEBTOR to operate a business or to sell personal property or such permits are withdrawn, canceled or terminated by the issuing authority; (iii) DEBTOR makes any representation or warranty, or provides information, to TMC FRANCHISE CORPORATION that proves to be materially false or misleading; (iv) a significant part of the Collateral is lost, substantially damaged, or destroyed; (v) there is a material adverse change in DEBTOR's business condition or affairs, financial or otherwise, that in TMC FRANCHISE CORPORATION's sole judgment impairs the prospects that DEBTOR will pay and perform the Obligations in a timely manner; (vi) DEBTOR terminates its business or any insolvency, receivership, reorganization, or liquidation proceedings are started by or against DEBTOR or by or

against any guarantor of or surety for DEBTOR's obligations, or any part thereof, secured hereby; (vii) DEBTOR fails to pay the full amount of any tax, fee or assessment due or owing to any federal, state, or local governmental authority (viii) the Collateral is subjected to levy of execution or other judicial process; (ix) DEBTOR breaches or terminates any Lease, Motor Fuel Agreement, or any other agreement or lease or understanding now existing or hereinafter arising, between DEBTOR and TMC FRANCHISE CORPORATION; (x) DEBTOR is found to be in violation of any federal, state or local law, ordinance, regulation, order or directive pertaining to the illegal use, generation, manufacture, storage, disposal, or transportation of any substances defined as, or included in the definition of, "hazardous substances," "hazardous materials," or "toxic substances;" (xi) DEBTOR is found to be in violation of the Americans With Disabilities Act of 1990, as amended, or the Fair Housing Act Amendment of 1988, as amended; (xii) the death of the DEBTOR or of any guarantor of or surety for DEBTOR's obligations, or any part thereof, secured hereby.

**2. Grant of Security Interest.** The DEBTOR hereby grants to TMC FRANCHISE CORPORATION, to secure the payment and performance in full of all of the Obligations, a purchase money security interest in any property sold to DEBTOR by TMC FRANCHISE CORPORATION or personal property acquired by DEBTOR with funds advanced by TMC FRANCHISE CORPORATION and a security interest in and so pledges and assigns to TMC FRANCHISE CORPORATION the following properties, assets and rights of the DEBTOR, wherever located, whether owned now or hereafter acquired or arising, and all proceeds and products thereof (all of the same being hereinafter called the "Collateral"): all personal and fixture property of every kind and nature including without limitation all Goods (including Inventory, Equipment, Fixtures and any accessions thereto), any other contract rights or rights to the payment of money, insurance claims and proceeds including, but not limited to, all rights, title and interest in and to accounts, chattel paper, commercial tort claims, consumer goods, deposit accounts, documents, equipment, farm products, instruments, inventory, investment property, letter-of-credit, money, oil, gas and other minerals before extraction, whether now owned or hereafter acquired, and all General Intangibles including, without limitation, all payment intangibles, trademarks, trademark applications, trade names, copyrights, copyright applications, software, engineering or architectural drawings, service marks, customer lists, goodwill, and all licenses, permits, agreements of any kind or nature pursuant to which the DEBTOR possesses, uses or has authority to possess or use property (whether tangible or intangible) of others or others possess, use or have authority to possess or use property (whether tangible or intangible) of the DEBTOR, and all recorded data of any kind or nature, regardless of the medium of recording including, without limitation, all software, writings, plans, specifications and schematics. To the extent applicable, terms contained in this section are given the meanings defined in Article 9 of the Uniform Commercial Code as adopted in the State of California and is intended to include all personal property of the DEBTOR wherever located, whether owned now or acquired later.

**3. Authorization to File Financing Statements.** DEBTOR hereby irrevocably authorizes TMC FRANCHISE CORPORATION at any time and from time to time to file in any Uniform Commercial Code jurisdiction any initial financing statements and amendments, or continuations thereto, with or without DEBTOR's signature or authentication, that (a) indicate the Collateral (i) as all assets of DEBTOR or words of similar effect, regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the Uniform Commercial Code of the State or such jurisdiction, or (ii) as being of an equal or lesser scope or with greater detail, and (b) contain any other information required by part 5 of Article 9 of the Uniform Commercial Code of the State for the sufficiency or filing office acceptance of any financing statement or amendment, including (i) whether DEBTOR is an organization, the type of organization and any organization identification number issued to DEBTOR and, (ii) in the case of a financing statement filed as a fixture filing, a sufficient description of real property to which the Collateral relates. DEBTOR agrees to furnish any such information to TMC FRANCHISE CORPORATION promptly upon request.

DEBTOR also ratifies its authorization for TMC FRANCHISE CORPORATION to have filed in any Uniform Commercial Code jurisdiction any like initial financing statements or amendments thereto if filed prior to the date hereof and authorizes TMC FRANCHISE CORPORATION to give any other notices that TMC FRANCHISE CORPORATION deems necessary to protect and perfect the rights granted by this Security Agreement.

**4. Other Actions.** Further to insure the attachment, perfection and first priority of, and the ability of TMC FRANCHISE CORPORATION to enforce, TMC FRANCHISE CORPORATION's security interest in the Collateral, DEBTOR agrees, in each case at DEBTOR's own expense, to take the following actions with respect to the following Collateral:

**4.1. Collateral in the Possession of a Bailee.** If any Goods are at any time in the possession of a bailee, DEBTOR shall promptly notify TMC FRANCHISE CORPORATION thereof and, if requested by TMC FRANCHISE CORPORATION, shall promptly obtain an acknowledgement from the bailee, in form and substance satisfactory to TMC FRANCHISE CORPORATION, that the bailee holds such Collateral for the benefit of TMC FRANCHISE CORPORATION and shall act upon the instructions of TMC FRANCHISE CORPORATION, without the further consent of DEBTOR. TMC FRANCHISE CORPORATION agrees with DEBTOR that TMC FRANCHISE CORPORATION shall not give any such instructions unless an Event of Default has occurred and is continuing or would occur after taking into account any action by DEBTOR with respect to the bailee.

**4.2. Other Actions as to any and all Collateral.** DEBTOR further agrees to take any other action reasonably requested by TMC FRANCHISE CORPORATION to insure the attachment, perfection and first priority of, and the ability of TMC FRANCHISE CORPORATION to enforce, TMC FRANCHISE CORPORATION's security interest in any and all of the Collateral including, without limitation, (a) executing, delivering and, where appropriate, filing financing statements and amendments relating thereto under the Uniform Commercial Code, to the extent, if any, that DEBTOR's signature thereon is required therefor, (b) causing TMC FRANCHISE CORPORATION's name to be noted as secured party on any certificate of title for a titled good if such notation is a condition to attachment, perfection or priority of, or ability of TMC FRANCHISE CORPORATION to enforce, TMC FRANCHISE CORPORATION's security interest in such Collateral, (c) complying with any provision of any statute, regulation or treaty of the United States as to any Collateral if compliance with such provision is a condition to attachment, perfection or priority of, or ability of TMC FRANCHISE CORPORATION to enforce, TMC FRANCHISE CORPORATION's security interest in such Collateral, (d) obtaining governmental and other third party consents and approvals, including without limitation any consent of any licensor, lessor or other person obligated on Collateral, (e) obtaining waivers from mortgagees and landlords in form and substance satisfactory to TMC FRANCHISE CORPORATION and (f) taking all actions required by any earlier versions of the Uniform Commercial Code or by other law, as applicable in any relevant Uniform Commercial Code jurisdiction, or by other law as applicable in any foreign jurisdiction.

**5. Relation to Other Security Documents.** The provisions of this Agreement supplement the provisions of any real estate mortgage or deed of trust granted by DEBTOR to TMC FRANCHISE CORPORATION and securing the payment or performance of any of the Obligations. Nothing contained in any such real estate mortgage or deed of trust shall derogate from any of the rights or remedies of TMC FRANCHISE CORPORATION hereunder.

**6. Representations and Warranties Concerning DEBTOR's Legal Status.** DEBTOR represents and warrants to TMC FRANCHISE CORPORATION that **(check one of the following):**

- ❑ DEBTOR is an individual or individuals whose "principal residence or residences," as that term is used in UCC § 9-307, is or are in the **State(s) of** \_\_\_\_\_ . DEBTOR warrants that his/her/their **legal name is or names are** \_\_\_\_\_ .
- ❑ DEBTOR is an organization whose sole "place of business," as that term is used in UCC § 9-307, is in the **State of** \_\_\_\_\_ . DEBTOR warrants that its "jurisdiction of organization," as that term is used in UCC § 9-503, is the **State of** \_\_\_\_\_ . DEBTOR further warrants that its name as it appears on the public record of that **State is** \_\_\_\_\_ and that its **organizational identification number is** \_\_\_\_\_ (if available) **and/or Tax ID #** \_\_\_\_\_ .
- ❑ DEBTOR is an organization with more than one place of business whose "chief executive office," as that term is used in UCC § 9-307, is in the **State of** \_\_\_\_\_ . DEBTOR warrants that its "jurisdiction of organization," as that term is used in UCC § 9-503, is **the State of** \_\_\_\_\_ . DEBTOR further warrants that its name as it appears on the public record of that **State is** \_\_\_\_\_ and that its **organizational identification number is** \_\_\_\_\_ .

**7. Covenants Concerning DEBTOR's Legal Status.** DEBTOR covenants with TMC FRANCHISE CORPORATION as follows: (a) without providing at least 30 days prior written notice to TMC FRANCHISE CORPORATION, DEBTOR will not change its name, its place of business or, if more than one, chief executive office, or its mailing address or organizational identification number if it has one, (b) if DEBTOR does not have an organizational identification number and later obtains one, DEBTOR shall forthwith notify TMC FRANCHISE CORPORATION of such organizational identification number, and (c) DEBTOR will not change its type of organization, jurisdiction of organization or other legal structure.

**8. Representations and Warranties Concerning Collateral, Etc.** DEBTOR further represents and warrants to TMC FRANCHISE CORPORATION as follows: (a) DEBTOR is the owner of or has other rights in or power to transfer the Collateral, free from any adverse lien, security interest or other encumbrance, except for the security interest created by this Agreement, and other liens permitted by the Credit Agreement, (b) none of the Collateral constitutes, or is the proceeds of, "farm products" as defined in §9-102(a)(34) of the Uniform Commercial Code of the State, (c) none of the account debtors or other persons obligated on any of the Collateral is a governmental authority subject to the Federal Assignment of Claims Act or like federal, state or local statute or rule in respect of such Collateral.

**9. Covenants Concerning Collateral, Etc.** DEBTOR further covenants with TMC FRANCHISE CORPORATION as follows: (a) the Collateral, to the extent not delivered to TMC FRANCHISE CORPORATION pursuant to section 4, will be kept at those locations listed in Exhibit "A" hereto, and DEBTOR will not remove the Collateral from such locations, without providing at least 30 days prior written notice to TMC FRANCHISE CORPORATION, (b) except for the security interest herein granted and liens permitted by the Franchise Agreement, Motor Fuel Agreement and Credit Agreement, DEBTOR is or shall be the owner of, or have other rights in, the Collateral, free from any lien, security interest or other encumbrance, and DEBTOR shall defend the same against all claims and demands of all persons at any time claiming the same or any interests therein adverse to TMC FRANCHISE CORPORATION, (c) DEBTOR shall not pledge, mortgage or create, or suffer to exist a security interest in the Collateral in favor of any person other than TMC FRANCHISE CORPORATION except for liens permitted by the Franchise Agreement, Motor Fuel Agreement and/or Credit Agreement, (d) DEBTOR will

keep the Collateral in good order and repair and will not use, or permit any person to use, the same in violation of law or any policy of insurance thereon, (e) as provided in the Franchise Agreement, Motor Fuel Agreement and/or Credit Agreement, DEBTOR will permit TMC FRANCHISE CORPORATION, or its designee, to inspect the Collateral at any reasonable time, wherever located, (f) DEBTOR will pay promptly when due all taxes, assessments, governmental charges and levies upon the Collateral or incurred in connection with the use or operation of such Collateral or incurred in connection with this Agreement, (g) DEBTOR will continue to operate, its business in compliance with all applicable provisions of the federal Fair Labor Standards Act, as amended, and with all applicable provisions of federal, state and local statutes and ordinances dealing with the control, shipment, storage or disposal of hazardous materials or substances, and (h) DEBTOR will not sell or otherwise dispose, or offer to sell or otherwise dispose, of the Collateral or any interest therein except for (i) sales and leases of Inventory and licenses of General Intangibles in the ordinary course of business and (ii) so long as no Event of Default has occurred and is continuing, sales or other dispositions of obsolescent items of Equipment in the ordinary course of business consistent with past practices dispositions permitted by the Franchise Agreement, Motor Fuel Agreement and Credit Agreement.

## **10. Insurance.**

**10.1. Maintenance of Insurance.** DEBTOR will maintain with financially sound and reputable insurers insurance with respect to its properties and business against such casualties and contingencies as shall be in accordance with general practices of businesses engaged in similar activities in similar geographic areas. Such insurance shall be in such minimum amounts that DEBTOR will not be deemed a co-insurer under applicable insurance laws, regulations and policies and otherwise shall be in such amounts, contain such terms, be in such forms and be for such periods as may be reasonably satisfactory to TMC FRANCHISE CORPORATION. In addition, all such insurance shall be payable to TMC FRANCHISE CORPORATION as loss payee. Without limiting the foregoing, DEBTOR will (i) keep all of its physical property insured with casualty or physical hazard insurance on an "all risks" basis, with broad form flood and earthquake coverage and electronic data processing coverage, with a full replacement cost endorsement and an "agreed amount" clause in an amount equal to 100% of the full replacement cost of such property, (ii) maintain all such workers' compensation or similar insurance as may be required by law and (iii) maintain, in amounts and with deductibles equal to those generally maintained by businesses engaged in similar activities in similar geographic areas, general public liability insurance against claims of bodily injury, death or property damage occurring, on, in or about the properties of DEBTOR; business interruption insurance; and product liability insurance.

**10.2. Insurance Proceeds.** The proceeds of any casualty insurance in respect of any casualty loss of any of the Collateral shall, subject to the rights, if any, of other parties with a prior interest in the property covered thereby, (i) so long as no Default or Event of Default has occurred and is continuing and to the extent that the amount of such proceeds is less than \$5,000, be disbursed to DEBTOR for direct application by DEBTOR solely to the repair or replacement of DEBTOR's property so damaged or destroyed and (ii) in all other circumstances, be held by TMC FRANCHISE CORPORATION as cash collateral for the Obligations. TMC FRANCHISE CORPORATION may, at its sole option, disburse from time to time all or any part of such proceeds so held as cash collateral, upon such terms and conditions as TMC FRANCHISE CORPORATION may reasonably prescribe, for direct application by DEBTOR solely to the repair or replacement of DEBTOR's property so damaged or destroyed, or TMC FRANCHISE CORPORATION

may apply all or any part of such proceeds to the Obligations with the Commitment (if not then terminated) being reduced by the amount so applied to the Obligations.

**10.3. Notice of Cancellation, etc.** All policies of insurance shall provide for at least thirty (30) days prior written cancellation notice to TMC FRANCHISE CORPORATION. In the event of failure by DEBTOR to provide and maintain insurance as herein provided, TMC FRANCHISE CORPORATION may, at its option, provide such insurance and charge the amount thereof to DEBTOR. DEBTOR shall furnish TMC FRANCHISE CORPORATION with certificates of insurance and policies evidencing compliance with the foregoing insurance provision.

**11. Collateral Protection Expenses; Preservation of Collateral.**

**11.1. Expenses Incurred by TMC FRANCHISE CORPORATION.** In its discretion, TMC FRANCHISE CORPORATION may discharge taxes and other encumbrances at any time levied or placed on any of the Collateral, make repairs thereto and pay any necessary filing fees or, if the debtor fails to do so, insurance premiums. DEBTOR agrees to reimburse TMC FRANCHISE CORPORATION on demand for any and all expenditures so made. TMC FRANCHISE CORPORATION shall have no obligation to DEBTOR to make any such expenditures, nor shall the making thereof relieve DEBTOR of any default.

**11.2. TMC FRANCHISE CORPORATION's Obligations and Duties.** Anything herein to the contrary notwithstanding, DEBTOR shall remain liable under each contract or agreement comprised in the Collateral to be observed or performed by DEBTOR thereunder. TMC FRANCHISE CORPORATION shall not have any obligation or liability under any such contract or agreement by reason of or arising out of this Agreement or the receipt by TMC FRANCHISE CORPORATION of any payment relating to any of the Collateral, nor shall TMC FRANCHISE CORPORATION be obligated in any manner to perform any of the obligations of DEBTOR under or pursuant to any such contract or agreement, to make inquiry as to the nature or sufficiency of any payment received by TMC FRANCHISE CORPORATION in respect of the Collateral or as to the sufficiency of any performance by any party under any such contract or agreement, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to TMC FRANCHISE CORPORATION or to which TMC FRANCHISE CORPORATION may be entitled at any time or times. TMC FRANCHISE CORPORATION's sole duty with respect to the custody, safe keeping and physical preservation of the Collateral in its possession, under §9-207 of the Uniform Commercial Code of the State or otherwise, shall be to deal with such Collateral in the same manner as TMC FRANCHISE CORPORATION deals with similar property for its own account.

**12. Securities and Deposits.** Whether or not any Obligations are due, TMC FRANCHISE CORPORATION may following and during the continuance of a Default and Event of Default demand, sue for, collect, or make any settlement or compromise which it deems desirable with respect to the Collateral. Regardless of the adequacy of Collateral or any other security for the Obligations, any deposits or other sums at any time credited by or due from TMC FRANCHISE CORPORATION to DEBTOR may at any time be applied to or set off against any of the Obligations then due and owing.

**13. Notification to Account Debtors and Other Persons Obligated on Collateral.** If a Default or an Event of Default shall have occurred and be continuing, DEBTOR shall, at the request of

TMC FRANCHISE CORPORATION, notify account debtors and other persons obligated on any of the Collateral of the security interest of TMC FRANCHISE CORPORATION in any Collateral and that payment thereof is to be made directly to TMC FRANCHISE CORPORATION or to any financial institution designated by TMC FRANCHISE CORPORATION as TMC FRANCHISE CORPORATION's agent therefor, and TMC FRANCHISE CORPORATION may itself, (if a Default or an Event of Default shall have occurred and be continuing), without notice to or demand upon DEBTOR, so notify account debtors and other persons obligated on Collateral. After the making of such a request or the giving of any such notification, DEBTOR shall hold any proceeds of Collateral received by DEBTOR as trustee for TMC FRANCHISE CORPORATION without commingling the same with other funds of DEBTOR and shall turn the same over to TMC FRANCHISE CORPORATION in the identical form received, together with any necessary endorsements or assignments.

**14. Power of Attorney.**

**14.1. Appointment and Powers of TMC FRANCHISE CORPORATION.** DEBTOR hereby irrevocably constitutes and appoints TMC FRANCHISE CORPORATION and any officer or agent thereof, with full power of substitution, as its true and lawful attorneys-in-fact with full irrevocable power and authority in the place and stead of DEBTOR or in TMC FRANCHISE CORPORATION's own name, for the purpose of carrying out the terms of this Agreement, to take any and all appropriate action and to execute any and all documents and instruments that may be necessary or desirable to accomplish the purposes of this Agreement and, without limiting the generality of the foregoing, hereby gives said attorneys the power and right, on behalf of DEBTOR, without notice to or assent by DEBTOR, to do the following:

(a) upon the occurrence and during the continuance off a Default or an Event of Default, generally to sell, transfer, pledge, make any agreement with respect to or otherwise deal with any of the Collateral in such manner as is consistent with the Uniform Commercial Code of the State and as fully and completely as though TMC FRANCHISE CORPORATION were the absolute owner thereof for all purposes, and to do at DEBTOR's expense, at any time, or from time to time, all acts and things which TMC FRANCHISE CORPORATION deems necessary to protect, preserve or realize upon the Collateral and TMC FRANCHISE CORPORATION's security interest therein, in order to effect the intent of this Agreement, all as fully and effectively as DEBTOR might do; and

(b) to the extent that DEBTOR's authorization given in section 3 is not sufficient, to file such financing statements with respect hereto, with or without DEBTOR's signature, or a photocopy of this Agreement in substitution for a financing statement, as TMC FRANCHISE CORPORATION may deem appropriate and to execute in DEBTOR's name such financing statements and amendments thereto and continuation statements which may require DEBTOR's signature.

**14.2. Ratification by DEBTOR.** To the extent permitted by law, DEBTOR hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable.

**14.3. No Duty on TMC FRANCHISE CORPORATION.** The powers conferred on TMC FRANCHISE CORPORATION hereunder are solely to protect its interests in the Collateral and shall not impose any duty upon it to exercise any such powers. TMC FRANCHISE CORPORATION shall be accountable only for the amounts

that it actually receives as a result of the exercise of such powers and neither it nor any of its officers, directors, employees or agents shall be responsible to DEBTOR for any act or failure to act, except for TMC FRANCHISE CORPORATION's own gross negligence or willful misconduct.

**15. Remedies.** If an Event of Default shall have occurred and be continuing, TMC FRANCHISE CORPORATION may, without notice to or demand upon DEBTOR, declare this Agreement to be in default, and TMC FRANCHISE CORPORATION shall thereafter have in any jurisdiction in which enforcement hereof is sought, in addition to all other rights and remedies, the rights and remedies of a secured party under the Uniform Commercial Code of the State or of any jurisdiction in which Collateral is located, including, without limitation, the right to take possession of the Collateral, and for that purpose TMC FRANCHISE CORPORATION may, so far as DEBTOR can give authority therefor, enter upon any premises on which the Collateral may be situated and remove the same therefrom. TMC FRANCHISE CORPORATION may in its discretion require DEBTOR to assemble all or any part of the Collateral at such location or locations within the jurisdiction(s) of DEBTOR's principal offices or at such other locations as TMC FRANCHISE CORPORATION may reasonably designate. Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, TMC FRANCHISE CORPORATION shall give to DEBTOR at least five Business Days prior written notice of the time and place of any public sale of Collateral or of the time after which any private sale or any other intended disposition is to be made. DEBTOR hereby acknowledges that five Business Days prior written notice of such sale or sales shall be reasonable notice. In addition, DEBTOR waives any and all rights that it may have to a judicial hearing in advance of the enforcement of any of TMC FRANCHISE CORPORATION's rights hereunder, including, without limitation, its right following an Event of Default to take immediate possession of the Collateral and to exercise its rights with respect thereto.

**16. Standards for Exercising Remedies.** To the extent that applicable law imposes duties on TMC FRANCHISE CORPORATION to exercise remedies in a commercially reasonable manner, DEBTOR acknowledges and agrees that it is not commercially unreasonable for TMC FRANCHISE CORPORATION (a) to fail to incur expenses reasonably deemed significant by TMC FRANCHISE CORPORATION to prepare Collateral for disposition or otherwise to complete raw material or work in process into finished Goods or other finished products for disposition, (b) to fail to obtain third party consents for access to Collateral to be disposed of, or to obtain or, if not required by other law, to fail to obtain governmental or third party consents for the collection or disposition of Collateral to be collected or disposed of, (c) to fail to exercise collection remedies against account debtors or other persons obligated on Collateral or to remove liens or encumbrances on or any adverse claims against Collateral, (d) to exercise collection remedies against account debtors and other persons obligated on Collateral directly or through the use of collection agencies and other collection specialists, (e) to advertise dispositions of Collateral through publications or media of general circulation, whether or not the Collateral is of a specialized nature, (f) to contact other persons, whether or not in the same business as DEBTOR, for expressions of interest in acquiring all or any portion of the Collateral, (g) to hire one or more professional auctioneers to assist in the disposition of Collateral, whether or not the collateral is of a specialized nature, (h) to dispose of Collateral by utilizing Internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capability of doing so, or that match buyers and sellers of assets, (i) to dispose of assets in wholesale rather than retail markets, (j) to disclaim disposition warranties, (k) to purchase insurance or credit enhancements to insure TMC FRANCHISE CORPORATION against risks of loss, collection or disposition of Collateral or to provide to TMC FRANCHISE CORPORATION a guaranteed return from the collection or disposition of Collateral, or (l) to the extent deemed appropriate by TMC FRANCHISE CORPORATION, to obtain the services of other brokers, consultants and other professionals to assist TMC FRANCHISE CORPORATION in the collection or disposition of any of the Collateral. DEBTOR acknowledges that the purpose of this section 16 is to provide non-exhaustive indications of what actions or omissions by TMC FRANCHISE CORPORATION would not be

commercially unreasonable in TMC FRANCHISE CORPORATION's exercise of remedies against the Collateral and that other actions or omissions by TMC FRANCHISE CORPORATION shall not be deemed commercially unreasonable solely on account of not being indicated in this section 16. Without limitation upon the foregoing, nothing contained in, this section 16 shall be construed to grant any rights to DEBTOR or to impose any duties on TMC FRANCHISE CORPORATION that would not have been granted or imposed by this Agreement or by applicable law in the absence of this section 16.

**17. No Waiver by TMC FRANCHISE CORPORATION, etc.** TMC FRANCHISE CORPORATION shall not be deemed to have waived any of its rights upon or under the Obligations or the Collateral unless such waiver shall be in writing and signed by TMC FRANCHISE CORPORATION. No delay or omission on the part of TMC FRANCHISE CORPORATION in exercising any right shall operate as a waiver of such right or any other right. A waiver on any one occasion shall not be construed as a bar to or waiver of any right on any future occasion. All rights and remedies of TMC FRANCHISE CORPORATION with respect to the Obligations or the Collateral, whether evidenced hereby or by any other instrument or papers, shall be cumulative and may be exercised singularly, alternatively, successively or concurrently at such time or at such times as TMC FRANCHISE CORPORATION deems expedient.

**18. Suretyship Waivers by DEBTOR.** DEBTOR waives demand, notice, protest, notice of acceptance of this Agreement, notice of loans made, credit extended, Collateral received or delivered or other action taken reliance hereon and all other demands and notices of any description. With respect to both the Obligations and the Collateral, DEBTOR assents to any extension or postponement of the time of payment or any other indulgence, to any substitution, exchange or release of or failure to perfect any security interest in any Collateral, to the addition or release of any party or person primarily or secondarily liable, to the acceptance of partial payment thereon and the settlement, compromising or adjusting of any thereof, all in such manner and at such time or times as TMC FRANCHISE CORPORATION may deem advisable. TMC FRANCHISE CORPORATION shall have no duty as to the collection or protection of the Collateral or any income thereon, nor as to the preservation of rights against prior parties, nor as to the preservation of any rights pertaining thereto beyond the safe custody thereof as set forth in section 11.2. DEBTOR further waives any and all other suretyship defenses.

**19. Marshalling.** TMC FRANCHISE CORPORATION shall not be required to marshal any present or future collateral security (including but not limited to this Agreement and the Collateral) for, or other assurances of payment of, the Obligations or any of them or to resort to such collateral security or other assurances of payment in any particular order, and all of its rights hereunder and in respect of such collateral security and other assurances of payment shall be cumulative and in addition to all other rights, however existing or arising. To the extent that it lawfully may, the DEBTOR hereby agrees that it will not invoke any law relating to the marshalling of collateral which might cause delay in or impede the enforcement of TMC FRANCHISE CORPORATION's rights under this Agreement or under any other instrument creating or evidencing any of the Obligations or under which any of the Obligations is outstanding or by which any of the Obligations is secured or payment thereof is otherwise assured, and, to the extent that it lawfully may, DEBTOR hereby irrevocably waives the benefits of all such laws.

**20. Proceeds of Dispositions; Expenses.** DEBTOR shall pay to TMC FRANCHISE CORPORATION on demand any and all expenses, including reasonable attorneys' fees and disbursements, incurred or paid by TMC FRANCHISE CORPORATION in protecting, preserving or enforcing TMC FRANCHISE CORPORATION's rights under or in respect of any of the Obligations or any of the Collateral. After deducting all of said expenses, the residue of any proceeds of collection or sale of the Obligations or Collateral shall, to the extent actually received in cash, be applied to the payment of the Obligations in such order or preference as TMC FRANCHISE CORPORATION may determine or in such order or preference as is provided in the Credit Agreement, proper allowance and provision being made for any Obligations not then due. Upon the final payment and satisfaction in full of all of the Obligations and

after making any payments required by Sections 9-608(a)(1)(C) or 9-615(a)(3) of the Uniform Commercial Code of the State, any excess shall be returned to DEBTOR, and DEBTOR shall remain liable for any deficiency in the payment of the Obligations.

**21. Overdue Amounts.** Until paid, all amounts due and payable by DEBTOR hereunder shall be a debt secured by the Collateral and shall bear, whether before or after judgment, interest at the rate of interest for overdue principal set forth in the Credit Agreement.

**22. Governing Law; Consent to Jurisdiction.** THIS SECURITY AGREEMENT SHALL BE GOVERNED BY ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE AS ADOPTED IN THE STATE OF CALIFORNIA, EXCLUSIVE OF ANY CONFLICT OR CHOICE-OF-LAW RULES, INCLUDING THOSE CONTAINED IN ARTICLE 9, THAT WOULD APPLY THE LAWS OF A DIFFERENT JURISDICTION. DEBTOR agrees that any suit for the enforcement of this Agreement may be brought in the courts of the State or any federal court sitting therein and consents to the non-exclusive jurisdiction of such court and to service of process in any such suit being made upon DEBTOR by mail at the address specified in section 24 herein. DEBTOR hereby waives any objection that it may now or hereafter have to the venue of any such suit or any such court or that such suit is brought in an inconvenient court.

**23. Waiver of Jury Trial.** DEBTOR WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THE PERFORMANCE OF ANY SUCH RIGHTS OR OBLIGATIONS. Except as prohibited by law, DEBTOR waives any right that it may have to claim or recover in any litigation referred to in the preceding sentence any special, exemplary, punitive or consequential damages or any damages other than, or in addition to, actual damages. DEBTOR (i) certifies that neither TMC FRANCHISE CORPORATION nor any representative, agent or attorney of TMC FRANCHISE CORPORATION has represented, expressly or otherwise, that TMC FRANCHISE CORPORATION would not, in the event of litigation, seek to enforce the foregoing waivers and (ii) acknowledges that, in entering into the Credit Agreement, (and the other Loan Documents to which TMC FRANCHISE CORPORATION is a party), TMC FRANCHISE CORPORATION is relying upon, among other things, the waivers and certifications contained in this section 23.

**24. Notice.** Notices to either party shall be in writing and may be delivered to the party personally, or by mail addressed to the party as set forth below or as otherwise designated in writing:

TMC Franchise Corporation  
Attn: Franchise Contracts  
1130 West Warner Road  
Tempe, AZ 85284

**25. Fair Credit Reporting Act.** DEBTOR authorizes TMC FRANCHISE CORPORATION to obtain credit reports on DEBTOR.

**26. Application of Funds.** DEBTOR authorizes TMC FRANCHISE CORPORATION to apply all funds received from DEBTOR, or from the Collateral in any manner, to the Obligations in such manner as TMC FRANCHISE CORPORATION in its sole discretion chooses.

**27. Miscellaneous.** The headings of each section of this Agreement are for convenience only and shall not define or limit the provisions thereof. This Agreement and all rights and obligations hereunder shall be binding upon DEBTOR and its respective successors and assigns, and shall inure to the benefit of TMC FRANCHISE CORPORATION and its successors and assigns. If any term of this Agreement shall

be held to be invalid, illegal or unenforceable, the validity of all other terms hereof shall in no way be affected thereby, and this Agreement shall be construed and be enforceable as if such invalid, illegal or unenforceable term had not been included herein. DEBTOR acknowledges receipt of a copy of this Agreement.

IN WITNESS WHEREOF, intending to be legally bound, DEBTOR has caused this Agreement to be duly executed as of the Effective Date indicated below.

**FRANCHISOR:** TMC Franchise Corporation

**DEBTOR:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
**Effective Date:** \_\_\_\_\_

Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**EXHIBIT I**

Kangaroo Express® Branding Agreement

## KANGAROO EXPRESS® BRANDING AGREEMENT

This KANGAROO EXPRESS® Branding Agreement (the “Agreement”) is entered into by and between TMC Franchise Corporation (“TMC”) and \_\_\_\_\_ (“Licensee”), effective as of the date TMC signs below (the “Effective Date”).

1. Duration. This Agreement will be for a term (the “Term”) that begins on the Effective Date and expires upon the expiration of the Franchise Agreement (as defined below).

2. Conditions to Renew. Upon expiration of the Term, Licensee will have the option to renew its rights under this Agreement consistent with any renewal option Licensee elects under the terms of its KANGAROO EXPRESS Franchise Agreement (“Franchise Agreement”) governing the Premises (as defined below) (the “Renewal Term”) provided Licensee has complied with all of the following conditions:

(A) Licensee has given TMC written notice of its request for a new license at least six (6) months prior to the expiration of the Term. Licensee’s failure to timely provide written notice to TMC will be deemed a rejection of the option to renew or operate pursuant to a new license. TMC will not unreasonably withhold its approval of such request for an offer of a new license, provided the conditions set forth in this Section 2 have been satisfied.

(B) Licensee meets TMC’s then-current requirements for new licensees.

(C) Licensee has complied in good faith with all material terms and conditions of this Agreement throughout the Term of this Agreement and is not in default of this Agreement or any other agreement with TMC or its affiliates.

(D) TMC and Licensee execute a mutual release of all claims relating to this Agreement subject to any incomplete performance or continuing obligations, unless such releases are prohibited by applicable law. If the Premises (as defined in Section 3 below) is situated in a state whose law, at the time of the offer of a new license, prohibits the giving of a general release as a condition for the offer of a new license, then this section will not, in such event, be a condition for the offer of a new license, unless a release of some, but not all, claims is permitted, in which instance TMC and Licensee will execute a release to the extent permitted by law.

(E) All monetary obligations owed by Licensee to TMC or any affiliates have been paid in full, or resolved to TMC’s satisfaction, prior to the end of the Term of this Agreement, and have been timely paid throughout the Term of this Agreement.

(F) Licensee agrees to execute TMC’s then-current form of Branding Agreement for the Renewal Term and other related agreements, if applicable, which may contain terms and conditions substantially different from those set forth in this Agreement.

(G) Licensee renews its Franchise Agreement for the Premises.

3. Premises. TMC grants Licensee the right to use the Proprietary Marks (as defined in Section 4 below) at the following location: \_\_\_\_\_ (the “Premises”). Licensee may not use or grant a third party the right to use the Proprietary Marks at any other location without TMC’s prior written consent.

4. TMC Signs and Branding.

(a) TMC hereby grants Licensee the non-exclusive right to use the KANGAROO EXPRESS® trademarks, service marks, trade names, brand names, trade dress, logos, color patterns, color schemes, design schemes, insignia, images and/or other brand identifications identified on Exhibit A to this Agreement (the “Proprietary Marks”) at the Premises and solely in connection with the advertising, marketing, and resale of motor fuel products including, without limitation, motor gasoline, on and off road diesel fuel and other specialty fuel

(collectively, the “Products”) all of which must meet TMC’s standards and requirements.

(b) Licensee shall, at Licensee’s sole expense, comply, and cause the Premises to comply, in full, with TMC’s branding, image, and appearance standards, policies, and guidelines set forth in the KANGAROO EXPRESS Image Guide which TMC may modify from time to time (the “KANGAROO EXPRESS Image Guide”). Licensee acknowledges, warrants and represents that it has received a copy of the KANGAROO EXPRESS Image Guide and Licensee understands and agrees that Licensee’s failure to comply, in full, with standards, policies, and guidelines set forth in the KANGAROO EXPRESS Image Guide will cause irreparable harm to TMC, and any such failure shall be a material breach of this Agreement. Licensee acknowledges and agrees that it is required to purchase all items containing the Proprietary Marks, including all signage, from TMC’s approved suppliers. TMC will provide Licensee with a list of approved suppliers, which list TMC may modify from time to time.

(c) It is further expressly understood and agreed that TMC will have the right to substitute, change or modify the Proprietary Marks during the Term or any Renewal Term of this Agreement, and Licensee) must comply with any substitution, change or modification. In the event of such substitution, change or modification, all references to the Proprietary Marks herein shall be deemed to refer to the substituted, changed or modified trademarks, service marks, trade names, brand names, trade dress, logos, color patterns, color schemes, design schemes, insignia, image standards and/or other brand identifications.

(d) Licensee may not use the Proprietary Marks or TMC’s name as part of Licensee’s corporate name or other name.

(e) Licensee agrees that it will take no action, or otherwise do anything or fail to do anything that will diminish, reduce, injure, dilute, or otherwise damage the value of the Proprietary Marks or other TMC trademarks or identifications.

(f) If Licensee breaches any TMC image or appearance standard Licensee must immediately correct each breach to bring the Premises into full compliance with TMC’s standards and requirements. If Licensee fails to correct any breach within thirty (30) days after Licensee’s receipt of written notice of such breach, TMC will have the option (but not the obligation) to correct the breach. If TMC exercises its option hereunder, Licensee will be required to immediately pay TMC, upon demand, all reasonable expenses incurred by TMC to correct the breach. Nothing contained in this subparagraph (f) shall be understood or deemed to waive or modify any of TMC’s rights, or any of Licensee’s obligations, under this Agreement.

5. Products. Licensee may purchase Products from any source provided the Products meet all applicable local, state and federal laws and regulations and TMC’s standards and requirements. TMC reserves the right to update and modify its standards and requirements from time to time and Licensee agrees to comply with any updates or modifications within 60 days of receiving notice of the change.

6. Fees/Method of Payment.

(a) Licensing Fee. Licensee agrees to pay TMC a monthly fee equal to \$0.0075 for each gallon of Product sold at the Premises (the “Licensing Fee”) provided, Licensee’s minimum total Licensing Fees each month must exceed \$500 (the “Minimum Monthly Fee”).

(b) Payments. On the 25th day of each month, Licensee’s monthly Licensing Fee, as specified in subpart (a) above, will be due to TMC and paid as outlined in subpart (d) below. All Licensing Fees paid during each month will be reconciled with each quarterly statement Licensee provides to TMC as required by subpart (c) below, and any underpayment of the Minimum Monthly Fee will immediately be due to TMC and paid as outlined in subpart (d) below.

(c) Statements. On or before the 21st day after the end of each calendar quarter, Licensee must provide TMC with a statement detailing the sales of all Products sold at the Premises for the prior calendar quarter.

(d) Method of Payment. Licensee will pay the monthly Licensing Fee, and any other amounts owed under this Agreement, via electronic funds transfer (“EFT”). Licensee must establish a commercial account with a financial institution that provides EFT services and execute the Electronic Funds Transfer Authorization attached hereto as Exhibit B, which agreement authorizes TMC to initiate transfers of funds between Licensee’s account and TMC’s account for payment of all amounts due to TMC under this Agreement. Licensee will not use, or

permit to be used, said commercial account for personal, family, or household purposes. Licensee will provide TMC with all information and authorization necessary to debit and credit Licensee's account. Licensee agrees to maintain at all times funds in its account sufficient to make payments to TMC at the time of the EFT transaction. Should any EFT transaction be rejected by Licensee's financial institution for Licensee's failure to maintain sufficient funds in Licensee's account, in addition to any other rights TMC may have under this Agreement or the law, TMC may collect an insufficient funds fee of \$50 for each insufficient funds payment. Additionally, if Licensee fails to timely pay TMC any amounts due under this Agreement by the due date, the payment will be considered late and TMC may charge Licensee interest on the amount past due at the lesser of 1½ % per month or the maximum legal rate allowed under applicable law. A payment will be considered late if (i) Licensee fails to pay TMC the total amount owed when due, or (ii) if insufficient funds are available in Licensee's account to fully pay the amount owed.

(e) Grant of Lien. Licensee hereby grants to TMC a lien and security interest against any and all personal property, assets, equipment and fixtures of Licensee. Licensee further agrees to sign all security agreements or other documentation requested by TMC to reflect its security interest.

7. Duties and Obligations of Licensee. At all times during the Term and at Licensee's sole cost and expense, Licensee shall conduct its business operations according to the minimum standards set forth below, which minimum standards are designed to promote the continuing good reputation of TMC, the Proprietary Marks, and all other TMC-branded licensees.

(a) Petroleum Products – Licensee shall ensure that no adulteration, mislabeling or misbranding of any Product occurs at the Premises and that such Products conform to TMC's quality standards and requirements.

(b) Compliance With Laws - Licensee shall become informed about and comply with all local, state and federal laws, statutes, regulations and ordinances related to the storage of Products and the offer and sale of Products at the Premises, including all environmental protection laws, statutes, regulations and ordinances and underground storage tank compliance requirements. Licensee shall become informed about and comply with all applicable local, state and federal requirements related to the generation, handling, transportation, treatment, storage and/or disposal of solid or hazardous wastes. Licensee also shall implement appropriate recycling, waste management and waste minimization practices and procedures as necessary to remain in compliance with all applicable local, state and federal environmental protection and compliance requirements.

(c) Inspection – TMC will have the right to inspect Licensee's operation of the business conducted at the Premises, and in particular to verify that Licensee is complying with (a) all its contractual obligations contained in this Agreement and all Exhibits to this Agreement, including but not limited to Licensee's use of the Proprietary Marks, and (b) all federal, state and local laws and regulations pertaining to the sale and storage of Products. Licensee grants TMC the right to enter the Premises unimpeded to review and audit all records including, but not limited to, all records of deliveries, sales and inventory reconciliation, to take samples of the Products sold at the Premises, and to inspect equipment.

(d) Books and Records – Licensee will throughout the Term of this Agreement and as applicable thereafter, maintain complete and accurate records of the volume of the Products sold at the Premises. Licensee shall provide statements of sales volume to TMC on a quarterly basis, which statements shall be certified by Licensee as true, complete and accurate. TMC will have the right to cause an audit to be made of Licensee's business in order to verify the volume of Products sold. Licensee shall make available to TMC and its designated employees, agents, contractors and authorized representatives, books and records reasonably necessary to complete a full, complete and accurate audit of sales volumes. Licensee also will allow TMC and its designated employees, agents, contractors and authorized representatives to have access to the Premises to complete such audit. If the results of such audit show that any of Licensee's prior statements were understated by 2% or more, Licensee agrees to pay TMC the reasonable cost of such audit. In any case, where an audit shows an understatement of sales volume, Licensee shall pay any deficiency in the Licensing Fee within 5 days following Licensee's receipt of notice of such deficiency.

(e) Maintenance of Operations – Licensee's Premises must meet industry standards of service and cleanliness as well as TMC's quality standards. All uses of TMC's Proprietary Marks must conform to the standards set by TMC.

(f) Acceptance of Cards – Licensee agrees to honor and accept all credit cards, credit identifications, fleet cards, debit cards, pre-paid cards or other similar transaction authorization cards (collectively “Transaction Cards”) identified in the KANGAROO EXPRESS Card Guide and other similar manuals and guidelines, whether in written or electronic form it receives from TMC (such guide, manuals, and other guidelines referred to as the “Card Guide”). Licensee shall account for and process all such transactions in strict compliance with the terms set forth in the KANGAROO EXPRESS Card Guide. Licensee shall pay all debit/credit card (processing) and service (transaction) fees incurred in connection with the debit/credit card transactions. The current processing and transaction fees are noted in TMC’s current disclosure document. TMC reserves the right to modify the processing and/or transaction fees from time to time on 30 days advance written notice, up to an increase of ten percent (10%) in any twelve-month period.

TMC shall accept from Licensee all transactions generated as a result of purchases made with authorized Transaction Cards and shall process such purchases in accordance with the terms in the KANGAROO EXPRESS Card Guide. At TMC’s option, TMC shall pay the amount of the transactions to Licensee, after deducting any processing and transaction fees, by: (i) check to Licensee; (ii) a credit to Licensee’s bank account by EFT; or (iii) setting off the amount against Licensee’s account with TMC. For each transaction not authorized, disputed by a customer, or otherwise subject to chargeback under the KANGAROO EXPRESS Card Guide, TMC may either charge the amount to Licensee’s account or require Licensee to make immediate refund to TMC, including refund by draft or EFT initiated by TMC, without any deduction for any processing fee.

Licensee acknowledges receipt of a copy of the Card Guide and shall comply fully with the operating rules, terms and conditions thereof. Without limiting any rights or remedies available to TMC, if Licensee fails to comply with this paragraph or the Card Guide, TMC may limit or terminate Licensee’s right to participate in the Transaction Card program. Further, TMC may alter, modify, amend, or terminate the Transaction Card program at any time upon notice to Licensee. TMC also reserves the right to charge back sales transaction amounts. Licensee shall maintain a record of each sales transaction (including the actual draft generated by the sale) for a period of no less than six (6) months from the date of the transaction. Any debit/credit card transactions that are charged back because of failure to comply with the then-current instructions and policies in the KANGAROO EXPRESS Card Guide or because of customer dispute will be the responsibility of the Licensee.

Licensee and TMC agree that all Transaction Card sales at the Premises will be made pursuant to a point of sale (“POS”) system for processing Transaction Cards. Licensee will have the responsibility of providing a POS machine and other associated equipment at all times during the Term of this Agreement at the Premises and will comply with TMC’s POS policies and guidelines, as amended from time to time. Such POS machine and other associated equipment will be the property of Licensee. TMC agrees to provide network connectivity to Licensee. In connection with providing network connectivity to Licensee, Licensee and TMC will enter into the Credit Network Agreement attached hereto as Exhibit C. In accordance with the terms of the Credit Network Agreement, Licensee will pay TMC a monthly Network Fee, which fees TMC may increase upon 30 days’ advance written notice. Licensee understands that TMC’s or any third party’s software or firmware or equipment may be installed in the POS machine for use at the Premises and that such software or firmware or equipment are proprietary products of TMC or the third party. In such event, Licensee understands and agrees that it has no right, title, or ownership interest in such software or firmware or equipment and agrees that it will not attempt to copy, modify, reverse engineer, decompile, disassemble or otherwise attempt to derive the source code of such software or firmware or equipment.

If TMC introduces its own proprietary credit cards, credit identifications, fleet cards, debit cards, pre-paid cards or other similar transaction authorization cards, Licensee shall accept and honor all such cards pursuant to the terms and conditions contained in this paragraph 7(f). The term “Transaction Cards” shall be understood to include all such KANGAROO EXPRESS cards.

(g) Financial Reports – Within 90 days after the end of its fiscal year, Licensee must provide TMC with Licensee’s year-end balance sheets, statements of income and cash flow. At TMC’s request, Licensee must audit its year-end balance sheet, statement of income and cash flow.

(h) Insurance – Licensee shall, at its sole expense, obtain insurance from a reputable insurance carrier authorized to do business in the state in which the Premises is located providing full and continuous coverage

for the full Term and all renewal periods thereof equivalent to the: (i) Comprehensive General Liability Insurance covering the Premises, all operations at the Premises, products completed operations liability, products liability, contractual liability, fire, explosion and collapse liability, as well as coverage on all contractor's equipment (other than motor vehicles licensed for highway use) owned, hired, or used in connection with this Agreement, bodily injury, and property damage, with minimum limits of at least \$1,000,000 per occurrence, and an aggregate coverage of no less than \$2,000,000; (ii) Workers Compensation Insurance as required by law; (iii) Employer's Liability Insurance against common law liability, in the absence of statutory liability, for employee bodily injury arising out of the master-servant relationship with a coverage limit of the greater of such amount required by law or \$500,000 per occurrence; and (iv) environmental pollution/impairment insurance coverage in an amount of at least \$1,000,000 on a continuous and uninterrupted basis insuring Licensee for all environmental liabilities arising out of, but not limited to, the storage, handling, dispensing, and/or sale of motor fuel products and lubricants at the Premises, and/or the ownership and operation of Licensee's business at the Premises. Such environmental/pollution impairment coverage shall extend at least two (2) years beyond the expiration, termination, or nonrenewal of this Agreement. Licensee may meet the requirements for environmental pollution/impairment coverage for underground storage tanks by participating in the federal Environmental Protection Agency ("EPA") approved state financial assurance fund or other EPA approved method to demonstrate financial responsibility or by satisfying any of the other financial assurance test requirements of the EPA's Financial Responsibility Regulations (40 CFR Part 280).

Licensee understands and agrees that any insurance coverage purchased by TMC shall not contribute to the Licensee's coverage requirements. All insurance policies obtained by Licensee will name TMC as an additional insured and will be primary as to any other existing, valid and collectible insurance. All such insurance shall contain provisions whereby the insurer releases all rights of subrogation against TMC. The foregoing requirements are minimum insurance requirements only and may or may not adequately meet the entire insurance needs of Licensee. TMC may require Licensee to carry additional types and amounts of insurance coverage, including modifications to these existing insurance requirements. Each policy or policies shall provide that the liability coverage afforded applies separately to each insured against whom a claim is brought as though a separate policy had been issued to each insured. If TMC so requires, Licensee shall furnish TMC with certificates of such insurance that provide that coverage will not be canceled or materially changed prior to 30 days' advance written notice to TMC. The insurance required hereunder in no way limits or restricts Licensee's obligations under the law or this Agreement as to indemnification of TMC. If Licensee fails to obtain insurance coverage meeting the minimum requirements outlined above, TMC may, but is not obligated to, obtain insurance coverage on Licensee's behalf and Licensee must reimburse TMC for all costs and expenses it incurred to obtain insurance coverage.

(i) Indemnification. Licensee shall indemnify, protect, defend, and save TMC harmless from and against any and all losses, claims, liabilities, environmental cleanup costs, fines, penalties, suits and actions, judgments and costs, including attorneys' fees and the costs of litigation, which shall arise from, or grow out of, any injury to or death of persons, or damage to or loss of property, or violation by Licensee or any other person of any governmental statute, law, regulation, rule, or ordinance, directly or indirectly resulting from, or in any way connected with (i) Licensee's performance of this Agreement, (ii) operation of Licensee, or activities of any other person, at the Premises, or (iii) the condition of the Premises and the adjoining streets, sidewalks or ways, irrespective of whether such injury, death, damage or loss is sustained by Licensee or any other person, firm or corporation which may seek to hold TMC liable. The existence or non-existence of any insurance required under this Agreement will not limit Licensee's indemnity or other obligations under this Agreement. This indemnity shall survive the termination or nonrenewal of this Agreement.

(j) Personal Guaranty. Each owner or general partner of Licensee, if Licensee is a corporation, limited liability company or partnership, must sign the Personal Guaranty, in the form attached to the Franchise Agreement, which Personal Guaranty shall apply to Licensee's obligations under this Agreement .

#### 8. Assignment.

(a) This Agreement is personal to Licensee. Licensee's interest in this Agreement shall not be transferred or assigned by Licensee in whole or in part, directly or indirectly, without the prior written consent of TMC and provided the following conditions are satisfied: (i) new Licensee ("Assignee") meets TMC's qualifications, (ii) Assignee signs TMC's current form of branding agreement, (iii) Assignee assumes all obligations under this Agreement, (iv) the KANGAROO EXPRESS convenience store located at the Premises is also transferred to Assignee in

accordance with the assignment conditions set forth in Licensee's Franchise Agreement, (v) any Sublicense Agreements entered into in connection with this Agreement are also transferred to Assignee, (vi) all amounts due TMC are paid in full, and (vii) release signed by Licensee.

(b) Subparagraph (a) above applies if any change in the control of the Licensee occurs including, without limitation, the sale, conveyance, alienation, transfer or other change of interest in, or title to, or beneficial ownership of, any voting stock, membership interest, or partnership interest, of or in the Licensee, whether voluntarily, involuntarily, by operation of law, merger or otherwise. A "change in the control" of Licensee shall be deemed to occur whenever a party gains the ability to influence the business and affairs of Licensee directly or indirectly. A party who owns, or otherwise possesses, twenty-five percent (25%), or more, of the voting stock, membership interest, partnership interest, or beneficial interest shall be deemed to have such ability.

(c) TMC may assign this Agreement in whole or in part upon ten (10) days' prior written notice to Licensee.

## 9. Termination.

(a) In addition to any other rights of termination which TMC may have hereunder or under any applicable law, upon the occurrence of any of the following events TMC may, at its option and upon notice to Licensee (to the extent required by, and in accordance with, applicable law), terminate this Agreement:

- (i) upon default in the payment of any sum payable by Licensee hereunder when due;
- (ii) if Licensee fails to cause the removal of the Proprietary Marks from any Premises Location that: (A) does not meet the minimum standards as set forth in this Agreement; and/or (B) is abandoned or unoccupied for a period of thirty (30) days or more;
- (iii) if Licensee fails to comply with any applicable laws and such failure: (A) could reasonably be expected to have a material adverse effect on Licensee's business; or (B) could have a material adverse effect on TMC or the Proprietary Marks;
- (iv) if Licensee uses or proposes to use the Proprietary Marks to identify a service station or retail outlet which is not the Premises;
- (v) if Licensee breaches any provision of this Agreement, the Franchise Agreement, or other agreement between Licensee and TMC or its affiliates;
- (vii) if any attachment, garnishment, execution or other legal process or proceeding is levied or begun by anyone other than TMC against or involving Licensee's business and such attachment, garnishment, execution or other legal process: (A) could reasonably be expected to have a material adverse effect on Licensee's business; or (B) could have a material adverse effect on TMC or the Proprietary Marks; or
- (viii) if Licensee becomes insolvent or makes or attempts to make an assignment for the benefit of its creditors, voluntarily enters into a reorganization, liquidation or bankruptcy proceeding, or has such proceeding brought against it involuntarily which such involuntary proceeding is not dismissed within thirty (30) days thereof, or has a receiver appointed for its assets, affairs or business.

(c) The occurrence of any of the events enumerated in Section 9(a) shall constitute a failure by Licensee to comply with a provision of this Agreement which is of material significance to the relationship between TMC and Licensee, and shall constitute "good cause" for TMC to cancel or terminate this Agreement. TMC's termination of this Agreement upon the occurrence of any of the events enumerated in Sections 9(a)(iv), (vi), (vii) or

(viii) above may be made by TMC forthwith and without prior notice to Licensee or right to cure. TMC's termination of this Agreement upon the occurrence of all other events enumerated in the remaining subsections of Section 9(a) above shall be effective if Licensee fails to cure the default within thirty (30) days after receiving notice of the same from TMC. A termination of this Agreement by TMC on account of the breach by Licensee of any provision of this Agreement shall be in addition to, and not in lieu of, any and all rights at law or in equity that TMC may have for such breach by Licensee.

(d) Upon any termination of this Agreement, Licensee shall, at its sole cost and expense, (i) immediately discontinue the use of the Proprietary Marks, (ii) cease holding itself out to the public as a TMC licensee, and (iii) immediately remove from the Premises and surrender to TMC or TMC's designee, at Licensee's sole risk and expense, any and all items, signage and materials containing the Proprietary Marks. If Licensee fails to remove all Proprietary Marks from the Premises within 10 days following any termination of this Agreement, then TMC or its designee may immediately enter and remove same at the sole cost and expense of Licensee and Licensee hereby agrees to reimburse TMC for any such cost or expense within 10 days after TMC makes demand for reimbursement.

(e) Licensee understands and agrees that TMC is relying upon Licensee to pay to TMC the amounts set forth herein, and that the early termination of this Agreement will result in serious losses to TMC. Licensee and TMC acknowledge that the amount of such losses is, and will be, difficult to determine. Therefore, Licensee agrees that in the event of a termination of this Agreement, Licensee shall pay to TMC, as liquidated damages, and not as a penalty: the average monthly Licensing Fee payments (calculated in accordance with paragraph 6) payable by Licensee hereunder for the 12 months preceding the termination (during which time Licensee was in good standing under this Agreement), or for a shorter period commencing with the Effective Date of this Agreement if this Agreement is terminated in the first 12 months of the Term, *multiplied by* the lesser of (i) 48 or (ii) the remaining number of months under the Term of this Agreement, as measured from the time of termination to the date the Term would have ended but for the earlier termination. If Kangaroo Express-branded motor fuel was never offered for sale at the Premises and therefore there is no history of Licensing Fee payments, the liquidated damages will be calculated based on an average monthly payment figure of \$500. The provisions of this paragraph 9(f) shall not affect any other rights and remedies TMC may have under this Agreement and under applicable law, including, but not limited to, the Petroleum Marketing Practices Act, 15 U.S.C. Section 2801 et seq. and the Uniform Commercial Code.

#### 10. Confidentiality.

(a) Licensee acknowledges that TMC may be disclosing and transmitting to it certain confidential and proprietary information of TMC, including without limitation guidelines, manuals, methods, policies, procedures, programs, software, firmware, specifications, standards, strategies, and other related information ("Confidential Information") in connection with Licensee's performance of this Agreement. Except where otherwise required by law, Licensee shall: (i) treat and maintain Confidential Information as confidential; (ii) use Confidential Information only for the operation of the Premises under this Agreement; and (iii) restrict disclosure of Confidential Information only to Licensee and its officers, directors employees, contractors or agents who are directly connected with the performance of work and require knowledge of the Confidential Information for Licensee's performance of its obligations hereunder.

(b) Licensee may not use, or cause or permit to be used by, or disclose to, or cause or permit to be disclosed to, third parties any Confidential Information for purposes other than operating the Premises under this Agreement.

(c) Licensee acknowledges that any failure to comply with the requirements of this paragraph 10 will cause TMC irreparable injury. The provisions of paragraph 10 will survive the termination or expiration of this Agreement and apply to all Confidential Information disclosed or transmitted to Licensee during the Term or any Renewal Term of this Agreement, whether prior to, during or after the expiration, termination, or nonrenewal of this Agreement.

#### 11. Miscellaneous.

(a) Notices. All notices required or permitted to be given under this Agreement to TMC will be in writing and will be made by overnight courier service, personal service upon an officer, or sent by prepaid registered or certified United States mail to any such officer of TMC, and will be deemed to have been duly given 24

hours after being sent by overnight courier service or five (5) days after being deposited in the United States mail for certified or registered delivery, addressed to TMC at 1130 West Warner Road, Tempe, Arizona 85284, Attention: Worldwide Franchising Group. All notices required or permitted to be given under this Agreement to Licensee will be made by personal service upon Licensee or, if applicable, an officer or director of Licensee or sent by overnight courier service, personal service or prepaid registered or certified United States mail addressed to Licensee at the Premises, or such other address as Licensee may designate in writing. Notice delivered by a delivery service that requires a written receipt signed by the addressee will be deemed to have been personally served under this Agreement. TMC may provide notice or other information to Licensee by electronic or telephonic means including by facsimile or through the Internet or other online means.

(b) Compliance with Laws. Licensee shall comply with all laws, statutes, regulations, ordinances, and rules of all applicable governmental authorities with respect to the operation of its business at the Premises. Both parties expressly agree that it is the intention of neither party to violate statutory or common law and that if any section, sentence, paragraph, clause or combination of same is in violation of any law, such sentences, paragraphs, clauses or combination of same shall be inoperative and the remainder of this Agreement shall remain binding upon the parties hereto.

(c) Amendment/Modification. This Agreement cancels and supersedes all prior written and unwritten agreements, attachments, schedules, appendices, amendments, promises, and understandings between the parties pertaining to the matters covered under this Agreement and is a final, complete and exclusive statement of the agreement between the parties hereto. THERE ARE NO ORAL UNDERSTANDINGS, REPRESENTATIONS OR WARRANTIES AFFECTING IT. No amendment, deletion, modification, or alteration to this Agreement shall have any effect unless and until made in writing and signed by an authorized representative of TMC.

(d) No Third-Party Beneficiary. Nothing contained in this Agreement shall be deemed, interpreted, or construed to create, or express any intent to create, third party beneficiary rights in favor of any person or entity, except for any indemnified party (or other person entitled to be indemnified pursuant to this Agreement), and TMC and Licensee specifically state and agree that no such intent exists.

(e) Control. Licensee is an independent businessman with the exclusive right to direct and control the business operation at the Premises, including the establishment of the prices at which products and merchandise are sold. TMC reserves no control over the business at the Premises. Licensee has no authority to employ anyone as an employee or agent of TMC for any purpose.

(f) Liability. TMC shall not be liable to Licensee or to any other person for any damage to or loss of property, or for injury to or death of persons, or for the violation by Licensee or any other person, of any governmental statute, law, regulation, rule, or ordinance, arising from the operation or activities of Licensee or any other person pursuant to this Agreement.

(g) Waiver. No waiver by TMC of any breach of any of the covenants or conditions herein contained to be performed by the Licensee shall be construed as a waiver of any succeeding breach of the same or any other covenant or condition.

(h) Damages. NO CLAIM SHALL BE MADE UNDER THIS AGREEMENT FOR SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, EXCEPT AS PROVIDED OTHERWISE BY LAW.

(i) Survivorship. To the extent, but only to the extent, that any provision of state law requires TMC to permit the succession of the rights and obligations hereunder to a designated family member of Licensee upon Licensee's death, such provision is incorporated herein by reference. In the absence of such provision, this Agreement shall terminate upon the death of the Licensee, if the Licensee is a natural person, or upon the death of the person who is the sole owner of the Licensee, if Licensee is a business entity.

(j) Joint and Several Obligations. All acknowledgments, representations, warranties, debts, and obligations of performance of Licensee under this Agreement are made, and binding on, all those signing this Agreement jointly and severally as the Licensee.

## 12. Dispute Resolution.

(a) Mediation. Except as expressly provided herein, the parties will attempt to settle disputes arising out of or relating to this Agreement or the parties' relationship by a meeting of a designated representative of Licensee and TMC within ten (10) days after a request by either of the parties to the other party asking for the same.

If such dispute cannot be settled at this meeting, either party may initiate mediation of the dispute. The parties will designate a mediator, or if the parties are unable to agree upon a mediator, each party will choose a mediator and the two mediators will choose a third person to mediate the dispute. If rules for this mediation are not mutually agreed upon by the parties, the Center for Public Resources Model Procedure for Mediation of Business Disputes will govern, and such mediation will take place within forty-five (45) days after a mediator is selected in Maricopa County, Arizona (or the county in which Franchisor's headquarters are located at the time mediation is demanded). Each party will bear their own costs of mediation and share equally the mediator's fees.

(b) Arbitration. If not resolved by mediation and except as qualified below, any dispute between TMC and Licensee or their respective affiliates arising under, out of, in connection with or in relation to this Agreement or the parties' relationship must be submitted to binding arbitration under the authority of the Federal Arbitration Act and in accordance with the Center for Public Resources Rules Non-Administered Arbitration of Business Disputes then in effect. 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 or otherwise to join or consolidate any claim with any other claim or any other proceeding involving third parties. In the event a court determines that this limitation on joinder of or class action certification of claims is unenforceable, then this entire commitment to arbitrate will become null and void and the parties must submit all claims to the jurisdiction of the courts. The arbitration must take place in Maricopa County, Arizona (or the county in which TMC's headquarters are located at the time arbitration is demanded). The arbitrator must follow the law and not disregard the terms of this Agreement. The arbitrator must have at least 5 years of significant experience in franchise law. A judgment may be entered upon the arbitration award by any state or federal court in the state where Franchisor maintains its headquarters or the state where the Premises are located. The decision of the arbitrator will be final and binding on all parties to the dispute; however, the arbitrator may not under any circumstances: (1) stay the effectiveness of any pending termination of this Agreement; or (2) make any award which extends, modifies or suspends any lawful term of this Agreement or any reasonable standard of business performance that TMC sets. All applicable statutes of limitations will be tolled while the procedures specified in this Section 12(b) are pending. The parties will take such action, if any, required to effectuate such tolling.

(c) Exception to Arbitration. Notwithstanding Section 12(b), the parties agree that the following claims will not be subject to arbitration:

1. any action for declaratory or equitable relief, including, without limitation, seeking preliminary or permanent injunctive relief, specific performance, other relief in the nature of equity to enjoin any harm or threat of harm to such party's tangible or intangible property, brought at any time, including, without limitation, prior to or during the pendency of any arbitration proceedings initiated hereunder.
2. any action in ejectment or for possession of any interest in real or personal property.

(d) Choice of Venue. Unless otherwise prescribed by applicable law, and subject to the provisions of Sections 12(a) and 12(b) regarding mediation and arbitration, all litigation, lawsuits, court hearings, proceedings or other actions initiated by either party against the other party will be venued in Maricopa County, Arizona. Consequently, Licensee, each of its officers, Directors, members or shareholders do hereby agree to submit to personal jurisdiction in Maricopa County, Arizona, for the purpose of any action or dispute arising out of this Agreement, the Premises or the Motor Fuel Business, and do hereby agree and stipulate that any such proceedings will be exclusively venued in Maricopa County, Arizona.

(e) Choice of Law. Except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. §1051 et seq.), and the Federal Arbitration Act (9 U.S.C. § 1, et seq.) this Agreement and the relationship between Licensee and TMC will be governed by the laws of the State of Arizona.

(f) Attorneys' Fees. It is hereby agreed to and understood by the parties to this Agreement that TMC will be entitled to recover from Licensee all reasonable attorneys' fees and other legal costs incurred by

TMC to secure or protect its rights under this Agreement or to enforce the terms thereof, whether at law or in equity.

TMC: TMC FRANCHISE CORPORATION

LICENSEE:

By: \_\_\_\_\_  
Justin Shelton

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

Title: Asst. Secretary \_\_\_\_\_

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

Exhibit A to Kangaroo Express Branding Agreement (Single Site)

**PROPRIETARY MARKS**

<b>Description of the Marks</b>	<b>Registration Date</b>	<b>Registration Number</b>	<b>Register</b>
Kangaroo Express Design	May 22, 2007	3244999	Principal
Kangaroo Express	May 22, 2007	3244998	Principal

Exhibit B to Kangaroo Express Branding Agreement (Single Site)

**ELECTRONIC FUNDS TRANSFER AUTHORIZATION**

\_\_\_\_\_ hereinafter called "We" ("our" or "us"), located at \_\_\_\_\_ hereby authorize Circle K Stores Inc. hereinafter called "CIRCLE K" or "you", to initiate debit entries to our **bank account number** \_\_\_\_\_ at the depository named below, hereinafter called "Depository", which in turn shall debit the same to such account. These debit entries will be in the form of electronic debit.

**DEPOSITORY:**

INSTITUTION NAME: \_\_\_\_\_  
ABA#: \_\_\_\_\_  
Branch: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

You are hereby authorized, as a convenience to us, to debit and credit our account for drafts on our account by the WELLS FARGO BANK NA as agent for CIRCLE K with CIRCLE K as payee, provided there are sufficient collected funds in such account to pay the same upon presentation. This authorization will remain in effect until revoked by us in writing, and you actually receive such notice. I agree that you shall be fully protected in honoring any such draft.

This Authorization Agreement allows CIRCLE K to debit and credit this account at frequent intervals for varying amounts. It is acknowledged and accepted that: CIRCLE K may debit our account on or after the due date defined by the terms of our franchise agreement and other agreements with TMC Franchise Corporation; **there will be a \$50 charge for any draft returned unpaid by your depository.** By signing this form, we in no way relinquish any legal right to dispute any item. This authority is to remain in full force and effect until CIRCLE K and Depository have received written notification from us of our termination in such time and in such manner as to afford CIRCLE K and Depository a reasonable opportunity to act on it.

_____	_____
CUSTOMER NAME	FAX NUMBER FOR EFT NOTICES
_____	_____
AUTHORIZED NAME (PLEASE PRINT)	PHONE NUMBER
_____	_____
AUTHORIZED SIGNATURE	DATE
_____	_____
TITLE	

**NOTE: PLEASE ATTACH A VOIDED CHECK FOR THE REFERENCED ACCOUNT IN ORDER TO ENSURE YOUR ACCOUNT IS PROPERLY AND ACCURATELY DEBITED.**

**CREDIT NETWORK AGREEMENT**

*[Attached as Exhibit 6 to the Franchise Agreement]*

**EXHIBIT J**

Sample Termination and Release Agreements

## TERMINATION AND RELEASE AGREEMENT

### (Franchise Agreement)

THIS TERMINATION AND RELEASE AGREEMENT (“Agreement”) is made and entered into by and between TMC Franchise Corporation (“Franchisor”), and \_\_\_\_\_ (“Franchisee”). All capitalized terms not defined in this Agreement have the respective meanings set forth in the Franchise Agreement (as defined below). This Agreement is effective on the date Franchisor signs below (the “Effective Date”).

### RECITALS

A. Franchisor and Franchisee entered into a Franchise Agreement dated \_\_\_\_\_, including all exhibits and amendments thereto (“Franchise Agreement”), whereby Franchisee was granted the right to operate a Kangaroo Express Store (the “Store”) at \_\_\_\_\_ (the “Authorized Location”).

B-C. [INSERT OTHER BACKGROUND INFORMATION.]

D. Franchisor and Franchisee have agreed to terminate the Franchise Agreement and all rights, obligations and responsibilities thereunder, subject to the terms and conditions of this Agreement.

### AGREEMENTS

In consideration of the promises expressed herein and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Termination of Franchise Agreement. As of \_\_\_\_\_ (the “Termination Date”), the Franchise Agreement is deemed terminated and of no further force and effect. As of the Termination Date, Franchisee has no further rights under or through the Franchise Agreement; provided, however, Franchisee acknowledges and agrees that it will comply with the post-termination obligations set forth in Section 3 below and as more fully stated in the Franchise Agreement.

2. Termination of Other Agreements. Franchisor and Franchisee acknowledge and agree that any and all other agreements that Franchisee may have with Franchisor or its affiliates relating to the operation of the Store (including, specifically, the Software Use Agreement between Franchisor and Franchisee) (collectively, the “Other Agreements”) are deemed terminated as of the Termination Date and of no further force and effect. Notwithstanding the foregoing, Franchisee acknowledges that it must comply with any and all obligations in the Other Agreements which, by their nature, survive termination or expiration of the Other Agreements. To the extent that any Other Agreements require the consent of a third party prior to termination, Franchisor will obtain such consent and the third party’s consent will be deemed to be granted as of the Termination Date, regardless of when the consent is actually provided.

3. Return of Operations Manual; Other Post-Termination Obligations. Beginning on the Termination Date of this Agreement, Franchisee shall immediately:

(a) Cease any and all use of the Kangaroo Express trademarks and business system;

(b) Return to Franchisor the Kangaroo Express Operating Manual and any other manuals, advertising materials, and any other proprietary information that Franchisor has provided to Franchisee for the operation of the Store;

(c) Cease any and all use of, and return to Franchisor, the “Software,” as defined in the Electronic Point of Sale and Software Agreement, and shall otherwise comply with Franchisee’s post-term obligations as set forth in said Agreement;

(d) Refrain from holding itself out as a present or former Kangaroo Express Franchisee; and,

(e) Otherwise comply with Franchisee’s post-term obligations as set forth in Section 14.7 of the Franchise Agreement.

4. Release.

A. Franchisee and its successors and assigns, affiliates, directors, officers, and shareholders and on behalf of any other party claiming an interest through them (collectively and individually referred to as the “Franchisee Parties” for purposes of this Section 4), release and forever discharge Franchisor, its predecessors, successors, assigns, affiliates, directors, officers, shareholders, and employees (collectively and individually referred to as the “Franchisor Parties” for purposes of this Section 4), of and from any and all claims, debts, liabilities, demands, obligations, costs, expenses, actions and causes of action, whether known or unknown, vested or contingent, which Franchisee Parties may now or in the future own or hold, that in any way relate to the Franchise Agreement, Other Agreements, or any other agreement between Franchisor and Franchisee, the Authorized Location, or the relationship between Franchisor and Franchisee through the Effective Date (collectively, the “Franchisee Parties Claims”), for known or unknown damages or other losses, including but not limited to any alleged violations of any deceptive or unfair trade practices laws, franchise laws, or other local, municipal, state, federal, or other laws, statutes, rules or regulations, and any alleged violations of the Franchise Agreement, Other Agreements or any other related agreement between Franchisor and Franchisee through the Effective Date.

B. The release of Franchisee Parties Claims as set forth in Section 4.A is intended by the Franchisee Parties to be a full and unconditional general release, as that phrase is used and commonly interpreted, extending to all claims of any nature, whether or not known, expected or anticipated to exist in favor of one of the Franchisee Parties against any other Franchisor Party regardless of whether any unknown, unsuspected or unanticipated claim would materially affect settlement and compromise of any matter mentioned herein. In making this voluntary express waiver, the Franchisee Parties acknowledge that claims or facts in addition to or different from those which are now known to exist with respect to the matters mentioned herein may later be discovered and that it is the Franchisee Parties’ intention to hereby fully and forever settle and release any and all matters, regardless of the possibility of later discovered claims or facts. The Franchisee Parties acknowledge that they have had adequate opportunity to gather all information necessary to enter into this Agreement and to grant the releases contained herein, and need no further information or knowledge of any kind that would otherwise influence the decision to enter into this Agreement. This release is and shall be and remain a full, complete and unconditional general release. The Franchisee Parties further acknowledge and agree that no violation of this Agreement shall void the release set forth in Section 4.

5. Indemnification. Franchisee agrees to indemnify, defend and hold Franchisor Parties harmless from and against any liability, damage, injury, or loss (including attorneys’ fees and all costs) that Franchisor Parties may incur, arising out of or relating to (a) the Franchise Agreement, (b) the operation of the Kangaroo Express Store at the Authorized Location at any time prior to and through the Effective Date, or (c) Franchisee’s breach of this Agreement.

6. Amounts Owed to Third Parties. Franchisee represents and warrants that all third party suppliers and vendors of Franchisee’s Kangaroo Express Store have been paid in full as of the Effective Date of this Agreement.

7. Confidentiality. Each of the parties hereto covenants and agrees to keep confidential any and all terms and provisions of this Agreement, other than as they may be required under law to disclose.

8. Acknowledgment. Franchisee acknowledges and agrees that the representations and agreements set forth in Section 4 are a material inducement to Franchisor to enter into this Agreement, such that Franchisor would not have entered into this Agreement in the absence of such agreements.

9. Binding Effect. This Agreement shall be binding upon, inure to the benefit of and be enforceable by Franchisee and Franchisor and their respective successors and assigns.

10. Governing Law. This Agreement shall be governed by the laws of Arizona. This Agreement is the entire agreement of the parties relative to this subject and will not be waived, altered or rescinded in whole or in part, except by an express writing by the parties. The provisions of this Agreement are severable and the invalidity or unenforceability of any of them will not affect the remainder of this Agreement.

11. Representation by Counsel. Franchisee and Franchisor have had the opportunity to consult with legal counsel of their respective choice with respect to this Agreement, including the full and final release of claims set forth herein.

12. Remedies and Attorneys' Fee. All rights and remedies of Franchisor and of Franchisee under this Agreement shall be cumulative and none shall exclude any other right or remedy allowed at law or in equity. Nothing herein shall bar Franchisor's right to obtain injunctive relief against threatened conduct that will cause a loss or damage, under the usual equity rules, including the applicable rules for obtaining restraining orders and preliminary injunctions. The nonprevailing party or parties shall pay the prevailing party's fees in any proceeding to enforce the terms and conditions of this Agreement.

13. Counterparts and Facsimile Copies. This Agreement may be signed in separate counterparts, and by facsimile copies, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement effective as of the Effective Date.

FRANCHISOR:  
TMC FRANCHISE CORPORATION

FRANCHISEE:  
\_\_\_\_\_

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

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

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

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

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

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

Exhibit J-2

**TERMINATION AND RELEASE AGREEMENT**

**(Motor Fuel Agreement)**

This Mutual Franchise Termination Agreement and Release (PMPA) (the "Agreement"), made this \_\_\_\_ day of \_\_\_\_\_, 2\_\_, between \_\_\_\_\_, with a business address of \_\_\_\_\_ (hereinafter the "Franchisor"), and \_\_\_\_\_, with an address of \_\_\_\_\_ (hereinafter the "Franchisee").

**WITNESSETH:**

WHEREAS, Franchisor and Franchisee have mutual obligations under a motor fuel supply contract ("Contract"), dated \_\_\_\_\_, and **[IF APPLICABLE, REFER ALSO TO STATION LEASE]** for the premises located at \_\_\_\_\_, dated \_\_\_\_\_ (the "Lease"); and

WHEREAS, the Contract and **[IF APPLICABLE, REFER ALSO TO STATION LEASE]** constitute(s) a franchise, subject to the Petroleum Marketing Practices Act, 15 U.S.C. Section 2801 *et seq.* ("PMPA") and to such state law as may govern the franchise between Franchisor and Franchisee; and

WHEREAS, the parties hereto desire to end their mutual obligations under the franchise referred to above.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which Franchisor and Franchisee hereby acknowledge, the parties agree as follows:

**TERMS**

1. Franchisor and Franchisee hereby agree to end their mutual obligations under the franchise regarding the premises located at \_\_\_\_\_, effective \_\_\_\_\_, 2\_\_\_\_ (the "Effective Date").

2. Franchisor and Franchisee hereby release and forever discharge one another, as of the above Effective Date, from all claims and demands which each party has against the other (whether or not known to either party) and whether accrued or not accrued, under (a) the Contract and **[IF APPLICABLE, REFER ALSO STATION LEASE]**, including without limitation, claims asserted under the Petroleum Marketing Practices Act, 15 U.S.C. Section 2801 *et seq.*, or under such state law as may govern the franchise between Franchisor and Franchisee, and (b) all applicable federal, state, local or municipal environmental laws, statutes, regulations and ordinances, excepting, however, claims of Franchisor against Franchisee for indebtedness or either party's breach of this Agreement.

3. Franchisee hereby acknowledges receipt of a copy of this Agreement and of a copy of the summary statement described in Section 104(d) [15 U.S.C. Section 2804(d)] of the PMPA enclosed herewith.

FRANCHISOR:  
TMC FRANCHISE CORPORATION

FRANCHISEE:  
\_\_\_\_\_

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

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

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

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

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

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

**EXHIBIT K**

Personal Guaranty

## Personal Guaranty

The Franchise Agreement and all other agreements between \_\_\_\_\_ (“Debtor”) and/or Debtor’s Affiliates, and TMC Franchise Corporation (including its Affiliates, “Franchisor”) are collectively referred to in this Personal Guaranty as “Agreement” or “Agreements.” “Affiliates” shall mean, with respect to a party hereto, any person or entity that directly or indirectly owns or controls the referenced party, that is directly or indirectly owned or controlled by the referenced party, or that is under common control with the referenced party, where the term “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity, whether through ownership of voting securities, by contract or otherwise.

In consideration of the execution of the Agreements by Franchisor, and for other good and valuable consideration, the undersigned, for themselves, their heirs, successors, and assigns, do jointly, individually and severally hereby become surety and guarantor, absolutely and unconditionally, for the prompt payment of all amounts and performance of all covenants, terms and conditions in the Agreements, to be paid, kept and performed by Debtor and its Affiliates (collectively, “Franchisee”), including without limitation the arbitration and other dispute resolution provisions of the Agreements.

Further, the undersigned, individually and jointly, hereby agree to be personally bound by each and every condition and term contained in the Agreements and agree that this Personal Guaranty will be construed as though the undersigned and each of them executed the Agreements containing the identical terms and conditions of the Agreements.

Each of the undersigned waives: (1) notice of demand and presentment for payment of any indebtedness or nonperformance of any obligations hereby guaranteed; (2) protest and notice of default to any party respecting the indebtedness or nonperformance of any obligations hereby guaranteed; and (3) any right he/she may have to require that an action be brought against Franchisee, or any other person as a condition of liability.

In addition, each of the undersigned consents and agrees that: (i) the undersigned’s liability will not be contingent or conditioned upon Franchisor’s pursuit of any remedies against Franchisee, or any other person; and (ii) such liability will not be diminished, relieved or otherwise affected by Franchisee’s insolvency, bankruptcy or reorganization, the invalidity, illegality or unenforceability of all or any part of the Agreements, or any amendment or extension to the Agreements with or without notice to the undersigned.

The undersigned irrevocably waives, disclaims and relinquishes any and all claims against Debtor which the undersigned otherwise has or would have by virtue of having executed this Guaranty, specifically including, but not limited to, all rights of indemnity, contribution or exoneration. The undersigned expressly subordinates any and all claim(s) against Debtor upon any account whatsoever to any claim(s) that Franchisor may have against Debtor at any time and for any reason.

The undersigned agrees to pay any and all attorneys’ fees, costs of suit and expenses incurred by Franchisor in connection with this Guaranty or in the collection of any of indebtedness from Debtor or the undersigned. **THE UNDERSIGNED WAIVES THE RIGHT TO A JURY TRIAL IN ANY LAWSUIT RELATED TO THIS GUARANTY.**

It is further understood and agreed by the undersigned that the provisions, covenants and conditions of this Guaranty will inure to the benefit of Franchisor’s successors and assigns.

The undersigned authorizes Franchisor to obtain a credit report on the undersigned.

Any married person who signs this Guaranty hereby expressly agrees that recourse may be made against both his or her separate property and community property interest for all obligations under this Guaranty.

**FRANCHISEE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**PERSONAL GUARANTORS:**

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Individually

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**EXHIBIT L**  
**Renewal Addendum**

## RENEWAL ADDENDUM TO FRANCHISE AGREEMENT

This Renewal Addendum to Franchise Agreement (the “**Renewal Addendum**”) is by and between TMC Franchise Corporation (“**Franchisor**”) and \_\_\_\_\_ (“**Franchisee**”) and is entered into and made effective as of the date Franchisor signs below (the “**Effective Date**”). All capitalized terms not defined in this Renewal Addendum have the meanings ascribed to them in the Renewal Franchise Agreement (as defined below). To the extent that the terms of this Renewal Addendum are inconsistent with any of the terms of the Renewal Franchise Agreement, the terms of this Renewal Addendum will supersede and govern.

A. Franchisor and Franchisee have entered into a franchise agreement dated effective \_\_\_\_\_ (the “**Original Franchise Agreement**”) pursuant to which Franchisor has granted Franchisee a right and obligation to establish and operate a Kangaroo Express convenience store (the “**Store**”), using the Marks and the Business System, at this location: \_\_\_\_\_ (the “**Franchised Location**”).

B. Simultaneously herewith, the parties are entering into a renewal Franchise Agreement (the “**Renewal Franchise Agreement**”) for the continued operation of the Store at the Franchised Location upon expiration of the term of the Original Franchise Agreement.

C. The parties wish to confirm the term of the Renewal Franchise Agreement and to modify the Renewal Franchise Agreement with respect to the payment of the initial franchise fee and other matters, as more particularly set forth below.

NOW, THEREFORE, the parties hereby agree and acknowledge as follows:

1. Term. The term of the Original Franchise Agreement will expire on \_\_\_\_\_ . The term of the Renewal Franchise Agreement will expire on \_\_\_\_\_ , and Section 3.1 of the Franchise Agreement is hereby amended accordingly.

2. No Further Renewal. Sections 3.2 (Conditions to Renew), 3.3 (Renewal Obligations) and 3.4 (Early Renewal) of the Renewal Franchise Agreement are hereby deleted in their entirety and the following is inserted in lieu thereof: “Intentionally Omitted”. Franchisee acknowledges that it has no further renewal rights.

3. Fees. Section 5.1 (Initial Franchise Fee) of the Renewal Franchise Agreement is amended to provide that no initial franchise fee shall be due upon execution of the Renewal Franchise Agreement.

4. Other Amendments. Section 6.2 (Grand Opening) of the Renewal Franchise Agreement is hereby deleted in its entirety and the following is inserted in lieu thereof: “Intentionally Omitted.”

5. Entire Agreement. This Renewal Addendum shall be attached to and incorporated into the Renewal Franchise Agreement. Except as expressly provided in this Renewal Addendum, the Renewal Franchise Agreement and the respective rights and obligations of Franchisee and Franchisor thereunder shall remain unchanged and be enforceable according to the terms of the

Renewal Franchise Agreement. Notwithstanding anything to the contrary in the Renewal Franchise Agreement, in the event of a conflict between the provisions of the Renewal Franchise Agreement and the provisions of this Renewal Addendum, the provisions of this Renewal Addendum shall control.

6. Release. Franchisee, for itself and each of its past and present heirs, executors, administrators, representatives, affiliates, directors, officers, owners, successors and assigns and on behalf of any other party claiming an interest through Franchisee, in their corporate and individual capacities (collectively “**Releasor**”), hereby releases and forever discharges Franchisor and each of its predecessors, successors, affiliates, subsidiaries, assigns, officers, directors, shareholders, agents and employees, and their respective heirs, executors, administrators, representatives, successors and assigns, in their corporate and individual capacities (collectively “**Releasees**”), from, in respect of and in relation to any and all claims, actions, causes of action, suits, debts, obligations, liabilities, sums of money, costs and expenses, acts, omissions or refusals to act, damages, judgments and demands, of any kind whatsoever, joint or several, known or unknown, vested or contingent, which the Releasor ever had, now has or which Releasor hereinafter can, will or may have, against Releasees related to, arising from, for, upon or by reason of any matter, cause or thing whatsoever related to the Original Franchise Agreement and the Store, the business operated thereunder or any other agreement between Releasor and Releasees, or the relationship between Releasor and Releasees, through the Effective Date (collectively, the “**Claims**”), for known or unknown damages or other losses, including but not limited to any alleged violations of any deceptive or unfair trade practices laws, franchise laws, or other local, municipal, state, federal, or other laws, statutes, rules or regulations, and any alleged violations of the Original Franchise Agreement or any other related agreement between Releasor and Releasees or the relationship between Releasor and Releasees through and including the Effective Date. For avoidance of doubt, the Releasor does not release Releasees from any obligations arising by virtue of the Renewal Franchise Agreement and any claims arising from the Releasees’ failure to comply with those obligations or the Franchise Disclosure Document furnished to Franchisee as part of entering into the Renewal Franchise Agreement and the franchise laws that apply to the specific offer, sale and signing of the Renewal Franchise Agreement.

The release of the Claims as set forth above is intended by the Releasor to be full and unconditional general releases, as that phrase is used and commonly interpreted, extending to all claims of any nature, whether or not known, expected or anticipated to exist in favor of the Releasees regardless of whether any unknown, unsuspected or unanticipated claim would materially affect settlement and compromise of any matter mentioned herein. In making this voluntary express waiver, the Releasor acknowledges that claims or facts in addition to or different from those which are now known to exist with respect to the matters mentioned herein may later be discovered and that it is the Releasor’s intention to hereby fully and forever settle and release any and all matters, regardless of the possibility of later discovered claims or facts. The Releasor acknowledges that Releasor has had adequate opportunity to gather all information necessary to enter into this Renewal Addendum and to grant the releases contained herein, and needs no further information or knowledge of any kind that would otherwise influence the decision to enter into this Renewal Addendum. The Releasor, for itself and its heirs, successors and assigns, hereby expressly, voluntarily, and knowingly waives, relinquishes and abandons each and every right, protection, and benefit to which they would be entitled, now or at any time hereafter under Section 1542 of the Civil Code of the State of California, as well as under any other statutes or common law principles of similar effect to said Section 1542, whether now or hereafter existing under the laws of California or any

other applicable federal or state law with jurisdiction over the parties' relationship. The Releasor acknowledges that Section 1542 of the Civil Code of the State of California provides as follows:

“A general release does not extend to claims which the creditor or releasing party 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 or released party.”

This release is and shall be and remain a full, complete and unconditional general release. The Releasor acknowledges and agrees that this release is an essential, integral and material term of this Renewal Addendum. The Releasor further acknowledges and agrees that no violation of this Renewal Addendum shall void the release set forth herein.

IN WITNESS WHEREOF, the parties have executed this Renewal Addendum as of the Effective Date set forth below.

**Franchisor:**

TMC FRANCHISE CORPORATION

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

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

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

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

**Franchisee:**

\_\_\_\_\_

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

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

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

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

**EXHIBIT M**

State Addenda

**RIDER TO THE STATE ADDENDUM TO  
THE FRANCHISE DISCLOSURE DOCUMENT AND THE FRANCHISE AGREEMENT  
FOR THE FOLLOWING STATES ONLY: CALIFORNIA, HAWAII, ILLINOIS,  
INDIANA, MARYLAND, MICHIGAN, MINNESOTA, NEW YORK, NORTH DAKOTA,  
RHODE ISLAND, SOUTH DAKOTA, VIRGINIA, WASHINGTON, WISCONSIN**

This Rider to the State Addendum to the Franchise Disclosure Document and Franchise Agreement is entered into by and between TMC Franchise Corporation, an Arizona corporation with an address of 1130 West Warner Road, Tempe, Arizona 85284 (“Franchisor”) and \_\_\_\_\_, with an address of \_\_\_\_\_ (“Franchisee”).

A. This Rider is being signed because (i) the franchised business that Franchisee will operate under the Agreement will be located in one of the states listed in the heading of this Rider (the “Applicable Franchise Registration State”); and/or (ii) any of the franchise offering or sales activity with respect to the Agreement occurred in the Applicable Franchise Registration State.

B. Franchisor and Franchisee have contemporaneously herewith entered into a Franchise Agreement (the “Agreement”) and wish to amend the Agreement as provided herein.

NOW, THEREFORE, for and in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Agreement is hereby amended as follows:

1. The following language is hereby added to the end of the Agreement:

“No statement, questionnaire, or acknowledgment signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with the franchise.”

2. Except as provided in this Rider, the Agreement remains in full force and effect in accordance with its terms. This Rider shall be effective only to the extent that the jurisdictional requirements of the franchise law of the Applicable Franchise Registration State are met independently without reference to this Rider.

Signed on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Franchisee: \_\_\_\_\_

Franchisor: TMC Franchise Corporation

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

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

Name:

Name:

Title:

Title:

Date:

Date:

ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT  
FOR THE STATE OF CALIFORNIA

The following information applies to franchises and franchisees subject to the California Franchise Investment Act. Item numbers correspond to those in the main body:

1. THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH THE FRANCHISE DISCLOSURE DOCUMENT. SECTION 31125 OF THE FRANCHISE INVESTMENT LAW REQUIRES US TO GIVE TO YOU A DISCLOSURE DOCUMENT APPROVED BY THE DEPARTMENT OF BUSINESS OVERSIGHT BEFORE WE ASK YOU TO CONSIDER A MATERIAL MODIFICATION OF YOUR FRANCHISE AGREEMENT.

OUR WEBSITE HAS NOT BEEN REVIEWED OR APPROVED BY THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT. ANY COMPLAINTS CONCERNING THE CONTENT OF THIS WEBSITE MAY BE DIRECTED TO THE CALIFORNIA DEPARTMENT OF BUSINESS OVERSIGHT AT [www.dbo.ca.gov](http://www.dbo.ca.gov).

2. Item 3.

Item 3 is amended to provide that neither TMC nor any other person identified in Item 2 is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities Exchange Act of 1934, 15 U.S.C.A. 78a et seq., suspending or expelling such persons from membership in such association or exchange.

3. Item 6

Item 6 Notes are amended to provide that the highest interest rate allowed by law in California is 10% annually.

4. Items 6 and 17.

The Franchise Agreement (and, to the extent applicable, the Multiple Site Operator Agreement) may contain a liquidated damages clause. Under California Civil Code Section 1671, certain liquidated damages clauses are unenforceable.

5. Item 17.

California Business & Professions Code Sections 20000 through 20043 provide rights to you concerning termination or nonrenewal of a franchise. If the Franchise Agreement (and, to the extent applicable, the Multiple Site Operator Agreement) contains a provision that is inconsistent with the law, the law will control.

6. Item 17.

Termination of the Franchise Agreement (or, to the extent applicable, the Multiple Site Operator Agreement) by TMC because of Franchisee's insolvency or bankruptcy may not be enforceable under applicable federal law (11 U.S.C.A. 101 et seq.).

7. Item 17.

The Franchise Agreement requires you to sign a general release if you transfer your franchise. This provision may be unenforceable under California law. California Corporations Code 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code 31000 through 31516). Business and Professions Code 20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code 20000 through 20043).

8. Item 17.

The Multiple Site Operator Agreement contain a covenant not to compete which extends beyond the termination of the Multiple Site Operator Agreement. This provision may not be enforceable under California law.

9. Item 17.

The Franchise Agreement (and, to the extent applicable, the Multiple Site Operator Agreement) requires binding arbitration to be conducted at Maricopa County, Arizona. You are encouraged to consult private legal counsel to determine the applicability of California and federal laws (such as Business and Professions Code Section 20040.5, Code of Civil Procedure Section 1281, and the Federal Arbitration Act) to any provisions of a franchise agreement restricting venue to a forum outside the State of California.

10. Franchisees must also sign a personal guaranty, making your spouse individually liable for your financial obligations under the agreement if you are married. The guarantee will place your and your spouse's marital and personal assets at risk if your franchise fails.

No statement, questionnaire, or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including, fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with this franchise.

Each provision set forth in this Addendum shall be effective only to the extent, with respect to such provision, that the jurisdictional requirements of the California Franchise Investment Law are met independently without reference to this Addendum.

ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT  
FOR THE STATE OF ILLINOIS

Illinois law governs the agreements between the parties to this franchise.

Section 4 of the Illinois Franchise Disclosure Act provides that any provision in a franchise agreement that designates jurisdiction or venue outside the State of Illinois is void. However, a franchise agreement may provide for arbitration outside of Illinois.

Section 41 of the Illinois Franchise Disclosure Act provides that 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.

Your rights upon termination and non-renewal of a franchise agreement are set forth in sections 19 and 20 of the Illinois Franchise Disclosure Act.

No statement, questionnaire, or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including, fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with this franchise.

ADDENDUM TO FRANCHISE AGREEMENT  
FOR THE STATE OF ILLINOIS

Illinois law governs the agreements between the parties to this franchise.

Section 4 of the Illinois Franchise Disclosure Act provides that any provision in a franchise agreement that designates jurisdiction or venue outside the State of Illinois is void. However, a franchise agreement may provide for arbitration outside of Illinois.

Section 41 of the Illinois Franchise Disclosure Act provides that 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.

Your rights upon termination and non-renewal of a franchise agreement are set forth in sections 19 and 20 of the Illinois Franchise Disclosure Act.

No statement, questionnaire, or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including, fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with this franchise.

Franchisee: \_\_\_\_\_

Franchisor: TMC Franchise Corporation

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

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

Name:

Name:

Title:

Title:

Date:

Date:

ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT  
FOR THE STATE OF INDIANA

Nothing in this disclosure document or the franchise agreement is intended to be contrary to the provisions of the “Deceptive Franchise Practices” law of Indiana, which is contained in Indiana Code, Title 23, Article 2, Chapter 2.7, Sections 1 through 7 as amended (“Indiana Franchise Practices Law”). In the event of any conflict between any provision of the franchise agreement and the Indiana Franchise Practices Law the Indiana law will control, but in that case, the provision of the franchise agreement affected will be limited only to the extent necessary to bring it within the requirement of the law and, to that extent, that provision shall be deemed to have been omitted from the franchise agreement as of the date of execution of the franchise agreement. This will not affect the validity of any remaining portion of the franchise agreement.

ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT  
FOR THE STATE OF MARYLAND

The following information applies to franchises and franchisees subject to Maryland statutes and regulations:

1. Item 5.

Based upon our financial condition, the Maryland Securities Commissioner has imposed a fee deferral requirement. Therefore, you will not be required to pay the initial fees due to us and/or our affiliates, including the Initial Franchise Fee and any other fees or costs, until we have completed all our pre-opening obligations to you and you begin operating your franchise business.

2. Pursuant to COMAR 02.02.08.16L, the general release required as a condition of renewal, sale, and/or assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

3. Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.

4. A Maryland franchisee may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

5. No statement, questionnaire, or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including, fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with this franchise.

ADDENDUM TO  
FRANCHISE AGREEMENT FOR THE  
STATE OF MARYLAND

This Addendum shall pertain to franchises sold in the state of Maryland and shall be for the purpose of complying with Maryland statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement to the contrary, the Agreement shall be amended as follows:

1. The following sentence is added at the end of Article 5.1 of this Agreement:

Based upon our financial condition, the Maryland Securities Commissioner has imposed a fee deferral requirement. Therefore, you will not be required to pay the initial fees due to us and/or our affiliates, including the Initial Franchise Fee and any other fees or costs, until we have completed all our pre-opening obligations to you and you begin operating your franchise business.

2. Pursuant to COMAR 02.02.08.16L, the general release required as a condition of renewal, sale, and/or assignment/transfer shall not apply to any liability under the Maryland Franchise Registration and Disclosure Law.

3. Any claims arising under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.

4. A Maryland franchisee may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law.

5. No statement, questionnaire, or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including, fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with this franchise.

In all other respects, the Franchise Agreement will be construed and enforced according to its terms.

Franchisee: \_\_\_\_\_

Franchisor: TMC Franchise Corporation

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

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

ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT  
FOR THE STATE OF NEW YORK

1. The following information is added to the cover page of the Franchise Disclosure Document:

**INFORMATION COMPARING FRANCHISORS IS AVAILABLE. CALL THE STATE ADMINISTRATORS LISTED IN EXHIBIT A OR YOUR PUBLIC LIBRARY FOR SOURCES OF INFORMATION. REGISTRATION OF THIS FRANCHISE BY NEW YORK STATE DOES NOT MEAN THAT NEW YORK STATE RECOMMENDS IT OR HAS VERIFIED THE INFORMATION IN THIS FRANCHISE DISCLOSURE DOCUMENT. IF YOU LEARN THAT ANYTHING IN THE FRANCHISE DISCLOSURE DOCUMENT IS UNTRUE, CONTACT THE FEDERAL TRADE COMMISSION AND NEW YORK STATE DEPARTMENT OF LAW, BUREAU OF INVESTOR PROTECTION AND SECURITIES, 120 BROADWAY, 23RD FLOOR, NEW YORK, NEW YORK 10271. THE FRANCHISOR MAY, IF IT CHOOSES, NEGOTIATE WITH YOU ABOUT ITEMS COVERED IN THE FRANCHISE DISCLOSURE DOCUMENT. HOWEVER, THE FRANCHISOR CANNOT USE THE NEGOTIATING PROCESS TO PREVAIL UPON A PROSPECTIVE FRANCHISEE TO ACCEPT TERMS WHICH ARE LESS FAVORABLE THAN THOSE SET FORTH IN THIS FRANCHISE DISCLOSURE DOCUMENT.**

2. The following is added at the end of Item 3:

Except as provided above, with regard to the franchisor, its predecessor, a person identified in Item 2, or an affiliate offering franchises under the franchisor's principal trademark:

A. No such party has an administrative, criminal or civil action pending against that person alleging: a felony, a violation of a franchise, antitrust, or securities law, fraud, embezzlement, fraudulent conversion, misappropriation of property, unfair or deceptive practices, or comparable civil or misdemeanor allegations.

B. No such party has pending actions, other than routine litigation incidental to the business, which are significant in the context of the number of franchisees and the size, nature or financial condition of the franchise system or its business operations.

C. No such party has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the 10-year period immediately preceding the application for registration, has been convicted of or pleaded nolo contendere to a misdemeanor charge or has been the subject of a civil action alleging: violation of a franchise, antifraud, or securities law; fraud; embezzlement; fraudulent conversion or misappropriation of property; or unfair or deceptive practices or comparable allegations.

D. No such party is subject to a currently effective injunctive or restrictive order or decree relating to the franchise, or under a Federal, State, or Canadian franchise,

securities, antitrust, trade regulation or trade practice law, resulting from a concluded or pending action or proceeding brought by a public agency; or is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.

3. The following is added to the end of Item 4:

Neither the franchisor, its affiliate, its predecessor, officers, or general partner during the 10-year period immediately before the date of the offering circular: (a) filed as debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code; (b) obtained a discharge of its debts under the bankruptcy code; or (c) was a principal officer of a company or a general partner in a partnership that either filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code or that obtained a discharge of its debts under the U.S. Bankruptcy Code during or within 1 year after that officer or general partner of the franchisor held this position in the company or partnership.

4. The following is added to the end of Item 5:

The initial franchise fee constitutes part of our general operating funds and will be used as such in our discretion.

5. The following is added to the end of the “Summary” sections of Item 17(c), titled **“Requirements for franchisee to renew or extend,”** and Item 17(m), entitled **“Conditions for franchisor approval of transfer”**:

However, to the extent required by applicable law, all rights you enjoy and any causes of action arising in your favor from the provisions of Article 33 of the General Business Law of the State of New York and the regulations issued thereunder shall remain in force; it being the intent of this proviso that the non-waiver provisions of General Business Law Sections 687.4 and 687.5 be satisfied.

6. The following language replaces the “Summary” section of Item 17(d), titled **“Termination by franchisee”**:

You may terminate the agreement on any grounds available by law.

7. The following is added to the end of the “Summary” section of Item 17(j), titled **“Assignment of contract by franchisor”**:

However, no assignment will be made except to an assignee who in good faith and judgment of the franchisor, is willing and financially able to assume the franchisor’s obligations under the Franchise Agreement.

8. The following is added to the end of the “Summary” sections of Item 17(v), titled “**Choice of forum**”, and Item 17(w), titled “**Choice of law**”:

The foregoing choice of law should not be considered a waiver of any right conferred upon the franchisor or upon the franchisee by Article 33 of the General Business Law of the State of New York.

ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT  
FOR THE STATE OF RHODE ISLAND

The following information applies to franchises and franchisees subject to Rhode Island statutes and regulations. Item numbers correspond to those in the main body.

1. Item 17.

Section 19-28.1-14 of the Rhode Island Franchise Investment Act provides that “[a] provision in a franchise agreement restricting jurisdiction or venue to a forum outside this state or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under this Act.”

ADDENDUM TO  
FRANCHISE AGREEMENT FOR THE  
STATE OF RHODE ISLAND

This Addendum will apply to franchises sold in the state of Rhode Island and will be for the purpose of complying with Rhode Island statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement to the contrary, the Agreement will be amended to include the following:

1. Article 20.5 is hereby deleted in its entirety and the following is substituted in its place:

20.5 Governing Law. Except to the extent governed by the United States Trademark Act of 1946 (Lanham Act, 15 U.S.C. § 1051 et seq.), and the Federal Arbitration Act (9 U.S.C. § 1, et seq.), or matters arising under the Rhode Island Franchise Investment Act which shall be governed thereby, this Agreement and the relationship between the Franchisor and Franchisee will be governed by the laws of the state of Arizona.

2. In all other respects, the Franchise Agreement will be construed and enforced according to its terms.

Franchisee: \_\_\_\_\_

Franchisor: TMC Franchise Corporation

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

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

Name:

Name:

Title:

Title:

Date:

Date:

ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT  
FOR THE STATE OF VIRGINIA

The following information applies to franchises and franchisees subject to Virginia statutes and regulations. Item numbers correspond to those in the main body:

1. Item 17. In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, the Franchise Disclosure Document for TMC Franchise Corporation for use in the Commonwealth of Virginia shall be amended as follows:

“Pursuant to Section 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to cancel a franchise without reasonable cause. If any ground for default or termination stated in the franchise agreement does not constitute “reasonable cause,” as that term may be defined in the Virginia Retail Franchising Act or the laws of Virginia, that provision may not be enforceable.”

ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT  
FOR THE STATE OF WASHINGTON

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.

RCW 19.100.180 may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.

In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.

A release or waiver of rights executed by a franchisee may not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.

Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

**Use of Franchise Brokers.** The franchisor may use the services of franchise brokers to assist it in selling franchises. A franchise broker represents the franchisor and is paid a fee for referring prospects to the franchisor and/or selling the franchise. Do not rely only on the information

provided by a franchise broker about a franchise. Do your own investigation by contacting the franchisor's current and former franchisees and ask them about their experience with the franchisor.

No statement, questionnaire, or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including, fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with this franchise.

ADDENDUM TO  
FRANCHISE AGREEMENT FOR THE  
STATE OF WASHINGTON

This Addendum shall pertain to franchises sold in the state of Washington and shall be for the purpose of complying with Washington statutes and regulations. Notwithstanding anything which may be contained in the body of the Franchise Agreement to the contrary, the Agreement shall be amended as follows:

In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.

RCW 19.100.180 may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.

In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington. A release or waiver of rights executed by a franchisee may not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, or rights or remedies under the Act such as a right to a jury trial, may not be enforceable.

Transfer fees are collectable to the extent that they reflect the franchisor's reasonable estimated or actual costs in effecting a transfer.

Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.

RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting

or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

No statement, questionnaire, or acknowledgement signed or agreed to by a franchisee in connection with the commencement of the franchise relationship shall have the effect of (i) waiving any claims under any applicable state franchise law, including, fraud in the inducement, or (ii) disclaiming reliance on any statement made by any franchisor, franchise seller, or other person acting on behalf of the franchisor. This provision supersedes any other term of any document executed in connection with this franchise.

Franchisee: \_\_\_\_\_

Franchisor: TMC Franchise Corporation

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

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

Name:

Name:

Title:

Title:

Date:

Date:

ADDENDUM TO FRANCHISE DISCLOSURE DOCUMENT  
FOR THE STATE OF WISCONSIN

The following information applies to franchises and franchisees subject to the Wisconsin Fair Dealership law. Item numbers correspond to those in the main body:

1. Item 17.

For all franchises sold in the State of Wisconsin, we will provide you at least 90 days' prior written notice of termination, cancellation, or substantial change in competitive circumstances. The notice will state all the reasons for termination, cancellation, or substantial change in competitive circumstances and will provide that you have 60 days in which to cure any claimed deficiency. If this deficiency is cured within 60 days, the notice will be void. If the reason for termination, cancellation, or substantial change in competitive circumstances is nonpayment of sums due under the franchise, you will have 10 days to cure the deficiency.

2. Item 17.

For Wisconsin franchisees, ch. 135, Stats., the Wisconsin Fair Dealership Law, supersedes any provisions of the franchise agreement (and, to the extent applicable, Multiple Site Operator Agreement) or a related contract which is inconsistent with the Law.

ADDENDUM TO  
FRANCHISE AGREEMENT FOR THE  
STATE OF WISCONSIN

This Addendum pertains to franchises sold in the State of Wisconsin and is for the purpose of complying with Wisconsin statutes and regulations. Notwithstanding anything that may be contained in the body of the Franchise Agreement to the contrary, the Agreement is amended as follows:

1. Notwithstanding anything that may be contained in the body of the Franchise Agreement to the contrary, Article 12 of the Agreement is extended as follows:

For all franchises sold in the State of Wisconsin, Franchisor will provide Franchisee at least 90 days' prior written notice of termination, cancellation, or substantial change in competitive circumstances. The notice will state all the reasons for termination, cancellation, or substantial change in competitive circumstances and will provide that Franchisee have 60 days in which to rectify any claimed deficiency. If the deficiency is rectified within 60 days, the notice will be void. If the reason for termination, cancellation, or substantial change in competitive circumstances is nonpayment of sums due under the franchise, Franchisee will be entitled to written notice of such default, and will have not less than 10 days in which to remedy such default from the date of delivery or posting of such notice.

2. Ch. 135, Stats., the Wisconsin Fair Dealership Law, supersedes any provisions of this Agreement or a related document between Franchisor and Franchisee inconsistent with the Law.

3. In all other respects, the Franchise Agreement will be construed and enforced according to its terms.

Each of the undersigned hereby acknowledges having read and understood this Addendum and consents to be bound by all of its terms.

Franchisee: \_\_\_\_\_

Franchisor: TMC Franchise Corporation

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

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

Name:

Name:

Title:

Title:

Date:

Date:

**EXHIBIT N**

State Effective Dates

**FRANCHISE DISCLOSURE DOCUMENT EFFECTIVE DATES**

The following states have franchise laws that require that the Franchise Disclosure Document be registered or filed with the states, or be exempt from registration: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington, and Wisconsin.

This Franchise Disclosure Document is registered, on file or exempt from registration in the following states having franchise registration and disclosure laws, with the following effective dates:

<u>STATE</u>	<u>EFFECTIVE DATE</u>
CALIFORNIA:	July 9, 2025
ILLINOIS:	July 9, 2025
INDIANA:	[PENDING]
MARYLAND:	[PENDING]
MICHIGAN:	July 9, 2025
NEW YORK:	July 9, 2025
VIRGINIA:	[PENDING]
WASHINGTON:	[PENDING]

Other states may require registration, filing, or exemption of a franchise under other laws, such as those that regulate the offer and sale of business opportunities or seller-assisted marketing plans.

**EXHIBIT O**

Receipts

RECEIPT

This disclosure document summarizes certain provisions of the franchise agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If TMC Franchise Corporation offers you a franchise, it must provide this disclosure document to you 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.

New York requires that TMC Franchise Corporation give you this disclosure document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.

Iowa and Michigan require that TMC Franchise Corporation give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

If TMC Franchise Corporation does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20580 and the state agency listed on Exhibit C.

The franchisor is TMC Franchise Corporation, located at 1130 West Warner Road, Tempe, Arizona 85284. Its telephone number is (602) 728-8000.

Issuance Date: July 9, 2025

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

\_\_\_\_\_

\_\_\_\_\_

TMC Franchise Corporation authorizes the respective state agencies identified on Exhibit C to receive service of process for it in the particular state.

I have received a disclosure document dated July 9, 2025, that included the following Exhibits: A) List of Franchised Outlets, B) Consolidated Financial Statements, C) List of State Franchise Administrators and Agents for Service of Process, D) Table of Contents of Business Systems Manuals, E) Franchisee Acknowledgment Addendum, F) Franchise Agreement, G) Multiple Site Operator Agreement, H) Motor Fuel Agreement, I) Branding Agreement, J) Sample Release Agreements, K) Personal Guaranty, L) Renewal Addendum, M) State Addenda, N) State Effective Dates, and O) Receipts.

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

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

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

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

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

Phone ( ) \_\_\_\_\_ Zip \_\_\_\_\_

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

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

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

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

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

Phone ( ) \_\_\_\_\_ Zip \_\_\_\_\_

RECEIPT

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

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

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

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

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

Phone ( ) \_\_\_\_\_ Zip \_\_\_\_\_

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

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

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

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

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

Phone ( ) \_\_\_\_\_ Zip \_\_\_\_\_