

## FRANCHISE DISCLOSURE DOCUMENT



Texas Roadhouse Development Corporation,  
a Kentucky corporation  
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[www.texasroadhouse.com](http://www.texasroadhouse.com)  
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We offer you a franchise to own and operate a Texas Roadhouse restaurant that features a specialized menu of steaks and ribs, related food items and full bar service (a “Texas Roadhouse Restaurant” or a “Restaurant”).

The total investment necessary to begin operation of a Restaurant ranges from \$4,349,500 to \$6,801,500 for a new Restaurant and \$2,647,500 to \$5,548,500 for a renovation (exclusive of land costs). This includes the \$40,000 franchise fee and amounts payable to us of approximately \$90,000 plus travel, lodging and meals for services provided by our representatives and marketing materials you acquire from us.

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

You may wish to receive your Franchise Disclosure Document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact Texas Roadhouse Development Corporation (“TRDC”), Legal Department, at (502) 426-9984 or [Legal@texasroadhouse.com](mailto:Legal@texasroadhouse.com).

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

Buying a franchise is a complex investment. The information in this Franchise Disclosure Document can help you make up your mind. More information on franchising, such as “*A Consumer’s Guide to Buying a Franchise*,” which can help you understand how to use this Franchise Disclosure Document, is available from the Federal Trade Commission. You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, 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.

Date of Issuance: March 31, 2023

## How to Use this Franchise Disclosure Document

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

QUESTION	WHERE TO FIND INFORMATION
<b>How much can I earn?</b>	Item 19 may give you information about outlet sales, costs, profits or losses. You should also try to obtain this information from others, like current and former franchisees. You can find their names and contact information in Item 20 or Exhibit D.
<b>How much will I need to invest?</b>	Items 5 and 6 list fees you will be paying to the franchisor or at the franchisor's direction. Item 7 lists the initial investment to open. Item 8 describes the suppliers you must use.
<b>Does the franchisor have the financial ability to provide support to my business?</b>	Item 21 or Exhibit A includes financial statements. Review these statements carefully.
<b>Is the franchise system stable, growing, or shrinking?</b>	Item 20 summarizes the recent history of the number of company-owned and franchised outlets.
<b>Will my business be the only Texas Roadhouse 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 Texas Roadhouse franchisee?</b>	Item 20 or Exhibit D 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 E.

Your state may also 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 or litigation only in Texas. 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 or litigate with the franchisor in Texas than in your own state.

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

**ADDENDUM TO TEXAS ROADHOUSE DEVELOPMENT CORPORATION.**

**FRANCHISE DISCLOSURE DOCUMENT  
FOR THE STATE OF MICHIGAN**

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

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

Any questions concerning this notice should be directed to the Michigan Department of Attorney General, Consumer Protection Division, Franchise Unit, 525 W. Ottawa Street, G. Mennen Williams Building, 1<sup>st</sup> Floor, Lansing, Michigan 48913; 517-373-7117.

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### STATE APPENDIX TO DISCLOSURE DOCUMENT

#### EXHIBITS

- A FINANCIAL STATEMENTS AND GUARANTY OF PERFORMANCE
- B FRANCHISE AGREEMENT AND APPLICABLE STATE AMENDMENTS
- C CONFIDENTIALITY AGREEMENT
- D LIST OF CURRENT AND FORMER FRANCHISEES
- E STATE ADMINISTRATORS
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- G CURRENT SAMPLE FORM OF GENERAL RELEASE
- H RECEIPTS



## ITEM 1

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

#### The Franchisor

The Franchisor is Texas Roadhouse Development Corporation, referred to in this Franchise Disclosure Document as, this “Disclosure Document”, “TRDC,” “we,” “us,” or “our.” To simplify the language in this Disclosure Document, we refer to the person interested in buying the franchise as “you” or “your.”

We were incorporated as a Kentucky corporation on June 21, 1995. Since October 8, 2004, we have been a wholly-owned subsidiary of Texas Roadhouse, Inc. (“TXRH”) a Delaware corporation whose stock is traded on the Nasdaq Global Select Market under the symbol “TXRH.” We and TXRH maintain our principal place of business at 6040 Dutchmans Lane, Louisville, Kentucky 40205. We do business under our corporate name and the service mark “Texas Roadhouse.” Our agents for service of process are listed in Exhibit F.

We sell franchises for restaurants that feature a specialized menu of steaks and ribs, related food items and full bar service (each, a “Restaurant” and two or more, collectively, “Restaurants”). Restaurants do business under the service mark “Texas Roadhouse” and other marks we may authorize collectively, (the “Marks”). They also use a distinctive system of operation (the “System”) described below. Our affiliate, Texas Roadhouse Delaware LLC (“Texas Roadhouse Delaware”), owns the Marks and the System and licenses them to us. (See Item 13) Texas Roadhouse Delaware also maintains its principal place of business at 6040 Dutchmans Lane, Louisville, Kentucky 40205.

The first Texas Roadhouse Restaurant opened in Clarksville, Indiana in February 1993. Although we do not operate Texas Roadhouse Restaurants, that Restaurant, and other Texas Roadhouse Restaurants (“Company-owned Restaurants”) are now owned (in whole or in part) by our affiliates. (See Item 20 for additional information as to the Company-owned and Franchise Restaurants)

Our affiliate, Texas Roadhouse Holdings LLC (“Holdings”), provides management and administrative services to the Company-owned and some but not all Franchise Restaurants directly or through other affiliated entities and, under a Management Agreement or Administrative Services Agreement between us and Holdings, to our franchisees. Management and administrative services include general and administrative support services, training, other pre-and post-opening assistance and support services, and marketing and promotional support. Holdings maintains its principal place of business at 6040 Dutchmans Lane, Louisville, Kentucky 40205.

We have offered franchises in our sole and absolute discretion for Texas Roadhouse Restaurants since 1995. We also offer licensed retail products but have never offered franchises for any other lines of business.

#### The Franchise

We offer franchises for Restaurants to qualified individuals and entities. In order to qualify, you must meet certain experience, financial and other criteria. You must be capitalized with equity of not less than \$800,000 or 25% of the total estimated project cost, whichever is higher, for each Restaurant for which a franchise is granted.

Restaurants operate under a System that includes distinctive exterior and interior design, decor, color scheme and furnishings. The System also includes special recipes and menu items; uniform standards, specifications and procedures for operations and quality and uniformity of products and services;

procedures for inventory, management and financial control; training and assistance; and marketing and promotional programs. We may change any of these items.

If we approve your application for a franchise, we will enter into a Franchise Agreement with you in the form attached to this Disclosure Document as Exhibit B. Under the Franchise Agreement, you must (i) identify managerial personnel reasonably acceptable to us to manage your Texas Roadhouse Restaurant; (ii) locate a site suitable for the operation of the Restaurant and acceptable to us within a non-exclusive area (the "Designated Area") described in the Franchise Agreement and demonstrate to our reasonable satisfaction your favorable prospects for obtaining the site; and (iii) demonstrate to our reasonable satisfaction that you have made appropriate arrangements to secure all necessary financing for the establishment of the Restaurant. You must provide us with all materials you propose to use in any private offering of your interests before you use them or file them with any governmental agency. You must also submit to us for review, at least 10 business days before you propose to sign or file them, (a) all material agreements relating to the Restaurant (including any lease or financing agreement), and (b) if you are a corporation, partnership, limited liability company or other form of entity, you must provide us with copies of your articles of incorporation, bylaws, partnership agreement, limited liability company articles of organization and operating agreement and all other governing documents and any amendments thereto, as well as resolutions of the Board of Directors, partners or members authorizing entry into and performance of the Franchise Agreement. Your material agreements and other documents (including your governing documents) may not contain any term that is contrary to or inconsistent with any provision of the Franchise Agreement, as we determine.

The Franchise Agreement gives you the right to establish and operate one Restaurant at a specified location within a designated geographic area. (See Items 11 and 12)

In the Franchise Agreement, we identify some parties as your "Principals." If you are an individual and are married, your spouse must be a Principal. If you are not an individual, your Principals include all of your officers and directors (including the officers and directors of your general partner, if applicable) whom we designate as your Principals, everyone who holds an ownership interest in you and in any entity that directly or indirectly controls you, and any other person or entity you control, that controls you, or that is under common control with you. The Franchise Agreement is signed by us, you, and those of your Principals we designate as your Controlling Principals. In most instances we will designate your principal equity owners and executive officers as Controlling Principals. **UNDER OUR CURRENT POLICY, PRINCIPAL EQUITY OWNERS ARE THOSE PERSONS WHO OWN AN INTEREST, DIRECTLY OR INDIRECTLY, OF 10% OR MORE IN YOU.** If you have a commonly controlled affiliate that operates a Texas Roadhouse Restaurant, we may also designate that affiliate as one of your Controlling Principals and may require you to sign as a Controlling Principal for your affiliate. Your Controlling Principals must sign a Controlling Principal Guaranty and Assumption Agreement agreeing to be individually bound by certain obligations in the Franchise Agreement (including covenants concerning confidentiality and noncompetition) and to personally guarantee your performance under the Agreement.

You must designate an "Operating Principal." Your Operating Principal will be the main person responsible for your business. If you are an individual, you will be the Operating Principal. If you are not an individual, your Operating Principal must maintain an equity interest in you. If you or your Affiliates operate multiple Texas Roadhouse Restaurants, you must designate the same person to serve as the Operating Principal under all Franchise Agreements between you and your Affiliates and us. The Operating Principal must be empowered with the sole authority to act for you and on your behalf. Your Operating Principal must sign a Controlling Principal Guaranty and Assumption Agreement, must individually make certain covenants in the Franchise Agreement, and must personally guarantee your performance under the Agreement. (See Item 15)

The Franchise Agreement gives us the right to require you to transfer your assets, less your liabilities, to us solely in exchange for shares of common stock of TXRH, or to require that all the investors in the franchise business exchange their ownership interests for shares of common stock of TXRH, as set

forth in the Franchise Agreement. We call both of these transactions a “Roll-up.” Additionally, if we exercise our Roll-up right, you must enter into an Agreement and Plan of Reorganization or Exchange in substantially the form as the sample which is included in the Franchise Agreement. (See Item 17.o)

### **Competition**

The market for restaurant services is well-established and highly competitive. There is active price competition among restaurants, as well as competition for management personnel and for attractive commercial real estate sites suitable for restaurants. You must expect to compete with many other restaurants offering comparably priced food and beverages. Competitors may be locally-owned or large regional or national chains. The restaurant business is also affected by changes in consumer taste, demographics, traffic patterns and economic conditions. However, we believe our competitive position will be enhanced by our product offerings and operational format. We intend to pursue controlled expansion into areas that can support more than one Texas Roadhouse Restaurant to improve our name recognition and competitive position.

### **Industry Specific Regulation**

Many of the laws, rules and regulations that apply to business generally, such as Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, the Americans With Disabilities Act, and other federal and state equal employment opportunity laws, federal and state wage and hour laws and the Occupational Safety and Health Act, also apply to restaurants. However, other laws, rules and regulations have particular applicability to restaurants, and especially restaurants that offer full bar service.

You must have a liquor license permitting the sale of liquor, beer and wine before you open the Restaurant. The difficulty and cost of obtaining a liquor license, and the procedures for securing the license, vary greatly from area to area. There is also wide variation in state and local laws and regulations that govern the sale of alcoholic beverages. In addition, state dram shop laws give rise to potential liability for injuries that are directly or indirectly related to the sale and consumption of alcohol.

The U.S. Food and Drug Administration, the U.S. Department of Agriculture and state and local health departments administer and enforce laws and regulations that govern food preparation and service and restaurant sanitary conditions. State and local agencies inspect restaurants to ensure that they comply with these laws and regulations. Some states have adopted or have introduced legislation requiring disclosures on menu items.

You should consider these and all other applicable laws and regulations when evaluating your purchase of a franchise. It is your responsibility to abide by all applicable laws, rules and regulations.

## **ITEM 2**

### **BUSINESS EXPERIENCE**

#### **Gerald L. Morgan – President**

Mr. Morgan was appointed President in March 2021. He joined Texas Roadhouse in 1997, during which time he has held the positions of Managing Partner, Market Partner and Regional Market Partner with Texas Roadhouse, Inc. Mr. Morgan has more than 35 years of restaurant management experience with Texas Roadhouse, Bennigan’s Restaurants and Burger King.

**Keith Humpich – Treasurer**

Mr. Humpich was appointed Treasurer in January 2023. He joined Texas Roadhouse in 2005 and has held the positions of VP of Finance, Senior Director of Internal Audit and Director of Internal Audit with Texas Roadhouse, Inc. Prior to joining us, Mr. Humpich held several different accounting, finance, and audit positions at Lexmark International and Ernst & Young, LLP. He has over 30 years of accounting and finance experience.

**Christopher C. Colson – Secretary**

Mr. Colson was appointed Secretary in June 2020. He joined Texas Roadhouse in 2005, during which time he has held the positions of Senior Counsel, Associate General Counsel and Executive Director of Global Development with Texas Roadhouse, Inc. Mr. Colson has over 20 years of restaurant industry experience with Texas Roadhouse, Frost Brown Todd LLC (serving as outside counsel to Texas Roadhouse), YUM! Brands, Inc. and as assurance staff at KPMG LLP.

**Hugh J. Carroll – Vice President**

Mr. Carroll was appointed Vice President in August 2018. Since joining Texas Roadhouse in August 2012, Mr. Carroll has also served as Vice President of Global Development and then President of International in August 2019 for Texas Roadhouse, Inc.

**ITEM 3**

**LITIGATION**

There is no litigation required to be disclosed in this Item.

California residents see the California Addendum to this Disclosure Document for additional disclosures required by California law.

**ITEM 4**

**BANKRUPTCY**

No bankruptcy is required to be disclosed in this Item.

**ITEM 5**

**INITIAL FEES**

**Initial Franchise Fee**

You must pay us an initial franchise fee of \$40,000 in two installments: You must pay \$15,000 of the initial franchise fee when you sign the Franchise Agreement and the remaining \$25,000 four weeks before your Restaurant opens for business.

**Initial Training Fee**

We do not charge a training fee for the initial training of your Operating Principal and up to five Managers for your first Restaurant but may do so if an entity affiliated with you has previously established a Texas Roadhouse Restaurant. We will charge a fee for the initial training of any Operating Principal, Market Partner (a supervisor that you must hire when you open your second restaurant), Manager, or other personnel at your second or a succeeding Restaurant and for the initial training of any replacement or

successor Operating Principal, Market Partner or Manager. Our current initial training fee is \$3,500 per person. This fee represents our cost of providing the training, including our administrative costs of making personnel available for training purposes and the cost of materials. Any initial training fee must be paid before training begins and is non-refundable. The initial training fee is charged uniformly to all franchisees under this offering, although actual dollar amounts may vary. All travel expenses of our training personnel are charged to the franchisee.

### **Site Evaluation Fee**

We may provide one on-site evaluation for your Restaurant site at no charge, except payment or reimbursement of our reasonable expenses. If we determine that additional on-site evaluations are necessary, or you reasonably request additional on-site evaluations, you must pay us a fee for the evaluation and must pay or reimburse our reasonable travel expenses incurred performing the evaluation. Our current site evaluation fee is \$500, plus expenses which must be paid before the time of the site visit. This fee is charged uniformly to all franchisees under this offering, although the actual dollar amounts paid may vary depending on the number of site evaluations and the travel expenses we incur in performing the services. Site evaluation fees and expenses are nonrefundable.

### **Construction Inspection Fee**

Upon your request, we will inspect the progress of your Restaurant's construction. We will provide one on-site inspection visit at no additional charge, except that you must pay or reimburse our reasonable expenses. If we determine that additional on-site inspections are necessary, or you reasonably request additional on-site inspections, you must pay us a fee for the inspection and must pay or reimburse our reasonable travel expenses incurred performing the inspection. Our current construction inspection fee is \$500, plus travel expenses, which must be paid before the time of the site visit and is not refundable.

### **Opening Crew Assistance**

We provide a significant number of trained representatives to assist you in opening your Restaurant. The number of representatives we send is in our sole and absolute discretion. For each representative that we send, you are responsible for the payment or reimbursement of our representative's expenses for such things as travel, lodging, meals, supplies and opening T-shirts. Our current rate for coordinators is \$16 per hour, our current rate for trainers is \$15 per hour, plus overtime wages and per diem, and our meat cutters' rate is the current rate they receive in their home restaurant, averaging around \$16 per hour. These amounts are not refundable.

### **Marketing and Promotional Materials**

We may acquire from Holdings or develop and provide you with marketing and promotional materials, including television and radio commercials. We may also place advertisements and other marketing and promotional materials for you. You may purchase these materials from us at our acquisition cost, plus a reasonable percentage to cover our administrative and other related expenses. These costs are not refundable.

All initial fees are determined uniformly for similarly situated franchisees.

**ITEM 6**

**OTHER FEES**

Type of Fee <sup>(1)</sup>	Amount	Due Date	Remarks
Royalty Fee	4% of Royalty Sales	On the 10th of the month for the preceding month	See Note 2 for the definition of Royalty Sales. In our discretion, we may reduce or waive the royalty fee.
Local Marketing	2% of Royalty Sales	Monthly	We may require you to allocate all or part of your Local Marketing expenditure to a Cooperative or to the Marketing Fund described below. If we do, we will credit the amount allocated against your Local Marketing obligation. Your total Franchisor-required payments or contributions for Local Marketing, to the Marketing Fund, to a Cooperative or to us as a marketing fee, will not be more than 3% of your Royalty sales.
Cooperative Marketing	2% of Royalty Sales, unless with our approval the members of the Cooperative agree to a larger fee	As determined by Cooperative	No Cooperatives have been established as of the date of this Disclosure Document. If established, we may require you to contribute to the Cooperative. If we do, we will credit your Cooperative contribution against your Local Marketing requirement. We may also require you to allocate your Franchisor-required Cooperative contribution to the Marketing Fund. If we do, we will credit the amount allocated against your Franchisor-required Cooperative contribution. Your total Franchisor-required payments for or contributions for Local Marketing, to the Marketing Fund, to a Cooperative, or to us as a marketing fee, will not be more than 3% of your Royalty Sales. Any of our restaurants that become a member of a Cooperative will have the same voting rights as a franchisee member; we will not exercise voting control over a Cooperative unless we own a majority of the restaurants that participate in the Cooperative.

Type of Fee <sup>(1)</sup>	Amount	Due Date	Remarks
Marketing Fund	Current: 0.3% of Royalty Sales; Maximum: 2.5% of Royalty Sales	On the 10th of the month for the preceding month	We have established a Marketing Fund for national or regional marketing on behalf of the System. Your contribution to the Marketing Fund is currently 0.3% of Royalty Sales. We may raise the rate to no more than 2.5% of Royalty Sales. (See Item 11) We may require you to allocate to the Marketing Fund all or a part of your required Local Marketing expenditure or Cooperative contribution. In any event, we will credit the payment of your Marketing Fund contribution against your required Local Marketing and Cooperative obligations. Your total Franchisor-required payments or contributions for Local Marketing, to the Marketing Fund, to a Cooperative or to us as a marketing fee, will not be more than 3% of your Royalty Sales.
Marketing Fee	0.5% of Royalty Sales	On the 10th day of the month for the preceding month	We may require you to pay us a marketing fee for market research and promotional and marketing materials. Your total Franchisor-required payments or contributions for Local Marketing, to the Marketing Fund, to a Cooperative or to us as a marketing fee, will not be more than 3% of your Royalty Sales. We are not currently charging this fee but may decide to activate the requirement at any time.
Marketing & Promotional Materials	Currently based on our cost of acquisition, plus reasonable cost to cover our administrative and other related expenses	When billed	We may acquire or develop and provide you with marketing and promotional materials to use in your Local Marketing. Currently, we expect to acquire from Holdings materials developed for use by the Company-owned Restaurants. We may also place the marketing materials for you.
Interest	Lesser of 18% per annum or highest rate allowed by applicable law	On demand	Interest may be charged on all overdue amounts.
Gift Card Sales Fee	Currently, 5% of third party redeemed gift cards. Maximum charge up to the actual cost of participating in our 3 <sup>rd</sup> Party Gift Card program.	Monthly	This fee is to cover a portion of the amounts that third party retailers charge us for selling our gift cards in their stores.
Initial Management Training	Currently, \$3,500 per person	Before training	We do not charge a fee to train the Operating Principal and up to five Managers for your first Restaurant, unless one of your affiliates has

Type of Fee <sup>(1)</sup>	Amount	Due Date	Remarks
			previously established a Texas Roadhouse Restaurant; then, we may charge a fee. We will charge a fee to train the Operating Principal, market partner, managers or other personnel at any additional Restaurants you establish and to train any replacement or successor Operating Principal, manager or other restaurant personnel at any of your Restaurants. You must pay all travel expenses you and your personnel incur including wages. (See Item 11)
Service Coach	Markets with 0-10 restaurants, \$7,500 annually, per restaurant  Markets with 11 or more stores, \$6,250 annually, per restaurant	Monthly	Service Coaches lead training and development, including coordination of new restaurant openings. They are assigned to markets with franchise and company locations.
Product Coach	Markets with 0-10 restaurants, \$7,500 annually, per restaurant  Markets with 11 or more restaurants, \$6,250 annually, per restaurant	Monthly	Product Coaches monitor food safety, sanitation, and recipe standards.
Certification/ Retraining Fees	You must pay our associated costs and charges for wages and meal expenses (currently, \$16 per hour for coordinators and \$15 per hour for trainers, plus overtime wages and per diem, and for meat cutters, it is the current rate they receive in their restaurant, which averages around \$16 per hour) for our certification personnel, plus expenses per Restaurant.	On certification	We may approve you to provide certain training if the Restaurants you operate are in compliance with our operational standards and your trainers meet our requirements. Before we approve you to provide training, we will conduct an evaluation of your Restaurants, which may include a food and beverage audit and training assessment and will certify those persons you have designated as trainers. Our approval may be revoked at any time if we determine that your Restaurants do not continue to meet our operational standards or if your trainers do not continue to meet our training requirements. If we do approve you to provide training, we may also require you to have any person you train tested by us. If we determine that any such person has not been adequately trained, we may retrain that person and charge you a retraining fee. (See Item 11).



Type of Fee <sup>(1)</sup>	Amount	Due Date	Remarks
Additional Training	At our option, a reasonable fee that will be determined for each program based on our costs of providing the training, creating materials, including our costs of providing instructors and training materials	After additional training	We may charge a fee for additional training programs and seminars, which may include Operational, administrative, POS and computer training. You must pay all expenses you and your personnel incur at any training program like the cost of travel, lodging, meals, wages and materials.
Remedial Assistance	You must pay our associated costs and charge for wages and meal expenses (currently, \$16 per hour for coordinators and \$15 per hour for trainers, plus overtime wages and per diem) for our representatives providing on-site remedial assistance	When billed	You must pay for remedial assistance if you request it or if we believe it is appropriate. Associated costs include our representatives' cost of travel and lodging.
Transfer Fee	\$3,500 or any greater amount necessary to reimburse us for our reasonable costs and expenses in reviewing the transfer application	Submitted with transfer application	We do not charge a fee if an individual or partnership franchisee transfers its rights to a corporation controlled by the same interest holders.  Payment of the fee is not a guarantee of approval.
Securities Offering Fee	\$3,500 or any greater amount necessary to reimburse us for our reasonable costs and expenses in reviewing the proposed securities offering	When billed	You may not conduct a public offering of your securities. You may offer your securities in a private offering with our consent. This fee covers our cost of reviewing your proposed offering materials. Our review is limited to the way the offering materials treat the subject of your and our relationship.  Payment of the fee is not a guarantee of approval.

Type of Fee <sup>(1)</sup>	Amount	Due Date	Remarks
Renewal Fee	The greater of 30% of our then-current franchise fee or \$15,000, plus all amounts necessary to reimburse us for our reasonable out-of-pocket costs and expenses associated with renewing, including legal and accounting fees	On signing renewal franchise agreement	You must give us at least 6 months' notice to renew. Among other things, we may also require you to remodel to our then-current standards and sign our then-current agreement.
Background Checks (which include criminal reports and motor vehicle reports)	Approximately \$45-\$100 per background check;	When billed	We require that you conduct background checks on all of your management-level personnel. You must furnish us a copy of all reports you receive, upon request.
Inspection and Testing	Cost of inspection, if applicable, and cost of test	When billed	We may require you to pay us or an independent laboratory for the cost of a test on samples of your products and supplies if we have not previously approved the supplier of the item or if the sample fails to conform to our specifications. You must also pay the cost of inspection and testing under our supplier approval procedures. (See Item 8)
Indemnification	Varies according to loss	On demand	You must indemnify us when certain of your actions result in loss to us. (See Item 9)
Audit Fee	Cost of audit	When billed	Payable only if we find, after an audit, that you have understated any amount owed to us by more than 2%.
Software and Networking Fees	To be determined	To be determined	We may charge a reasonable fee if we license any proprietary computer software to you, as well as a reasonable fee for upgrades, enhancements and replacements of that proprietary computer software. Licensing and maintenance fees for any third-party software, including but not limited to Point-of-Sale and back office applications, are to be paid by you and will be billed on a regular basis. If we do not license software to you, you will be billed by a third party provider.
I.T. Support Fee	\$350.00/Month	When billed	

Type of Fee <sup>(1)</sup>	Amount	Due Date	Remarks
Insurance Fee	A reasonable amount based on our expenses	When billed	If you fail to maintain the required insurance, we may obtain it for you. If we do, we will charge you a fee, plus the cost of the insurance.
Employment Fee	Employee's compensation for the 6-month or shorter period (between 4 to 6 months) immediately before his termination of employment with his former employer	Payable on employment of the employee	If you hire one of our managers or trainers, or a manager or trainer employed by one of our affiliates or franchisees, you must compensate the former employer. Consent to the employment of company managers or trainers can only be given by the Vice President of Operations for Texas Roadhouse and/or the Vice President of Legendary People. It is our policy that consent will be given only when an employee's replacement has been hired, trained and put in the position. This process typically takes 180 days.
Opening Training Materials	\$2,500 <sup>(3)</sup> or more, based on new additions	When billed	
Opening Trainer T-shirts and Training Gifts	\$1,650 or more, based on quantity	When billed	Must be approved by us.
Force Majeure	Minimum Fee	When billed	Payable during relocation or reconstruction of the Restaurant after a force majeure event.
Costs and Attorneys' Fees	Will vary	As incurred	You must pay our costs of enforcement if you do not comply with the Franchise Agreement.
Managing Partner Compensation Program <sup>(4)</sup>	Will vary	Salary - semi-monthly, as arranged  Bonus/profit sharing distribution monthly, as arranged	You must provide the Managing Partner a bonus or profit-sharing pay component that is a significant portion of the Managing Partner's total compensation.
Remodeling Requirements	Varies according to need	On or before the 3rd anniversary of the date the Restaurant opens or at any other time that a majority of company-owned Texas Roadhouse Restaurants are remodeling	We may require you to make improvements to modernize the Restaurant to reflect our current standards and specifications. Payments will be made to the contractors and other suppliers who perform the work.
Copyright License Expense	Varies according to third party license fees assessed		The Franchise Agreement requires you to obtain copyright licenses for the recorded music we require you to play in your Restaurant. If you fail to obtain the copyright licenses or if you request us to obtain them for you, we will obtain the

Type of Fee <sup>(1)</sup>	Amount	Due Date	Remarks
			copyright license for you, and we will pay the license expenses directly to third party licensing organizations (like ASCAP, SESAC and BMI) on your behalf. You must reimburse us your prorata share of the aggregate fee for all System Restaurants upon receipt of an invoice from us.
Liquidated Damages	\$1,000 per violation for operational violations and \$200 per violation for financial and other reporting violations	5 days following notice	If you repeatedly violate our requirements in the Manuals, we may assess liquidated damages. We may also pursue other remedies. We may also assess liquidated damages if your required financial or other required reports are more than 30 days past due.
Inspection and Post-Termination/ Post-Expiration Fee	A reasonable fee based on our expenses	On demand	If an inspection reveals deficiencies you fail to correct, we may (but need not) correct them for you and charge a fee for our expenses. If you fail to de-identify after the Franchise Agreement terminates or expires, we may make the necessary changes at your expense.

**Notes:**

(1) All fees and expenses described in this Item 6 are non-refundable. Except as otherwise indicated in the preceding chart, all fees and expenses are imposed by, and are payable to, us. You must let us withdraw the royalty fee and your Marketing Fund contribution from your designated bank account by electronic fund transfer (“EFT”). You must maintain a minimum of three months of operating expenses in your designated bank account. Except as specifically stated above, the amounts given may be subject to increases based on changes in market conditions, our cost of providing services and future policy changes.

(2) “Royalty Sales” means the total selling price of all services and products and all income of every other kind and nature related to the Restaurant, whether for cash or credit and regardless of collection in the case of credit. Proceeds from the sale of coupons, gift cards, gift certificates or vouchers will not be included in Royalty Sales when the coupons, gift cards, gift certificates or vouchers are sold; rather, the retail price of services and products purchased with coupons, gift cards, gift certificates or vouchers will be included in Royalty Sales during the period in which the coupon, gift card, gift certificate or voucher is redeemed.

Royalty Sales does not include:

- (a) Sums representing sales taxes collected directly from customers, based on present or future federal, state or local laws, that you collect in the operation of the Restaurant, and any other tax, excise or duty levied or assessed against you by any federal, state, municipal or local authority, based on sales of specific merchandise sold at or from the Restaurant, if the taxes are actually transmitted to the appropriate taxing authority;
- (b) Tips or gratuities paid directly to your employees by customers;
- (c) Returns to shippers or manufacturers;

(d) Proceeds from isolated sales of trade fixtures not constituting any part of the products and services offered for resale at the Restaurant or not having any material effect on the ongoing operation of the Restaurant;

(e) The value of any meals you provide to your employees as an incident to their employment, except to the extent you receive payment for the meals; and

(f) Any proceeds resulting from the sale of the Restaurant or your rights under the Franchise Agreement.

We may authorize other items to be excluded from Royalty Sales. We may also revoke or withdraw an exclusion at any time in writing.

(3) We have included the cost of training videos covering topics such as Meat Handling, The Story and Line Dancing for which you will be billed. We may require the purchase of additional training videos in our discretion.

## ITEM 7

### ESTIMATED INITIAL INVESTMENT

#### YOUR ESTIMATED INITIAL INVESTMENT

Type of Expenditure	Amount Low – High	Method of Payment	When Due	To Whom Payment is Made
Franchise Fee (1)	\$40,000	(1)	(1)	Us
Leasehold/Building Improvements (2)	Renovation: \$800,000 to \$1,700,000 New Build-out: \$1,900,000 to \$2,600,000	As Arranged	As Invoiced	Landlord/ Independent Contractors
Architectural / Engineering/ Site Evaluation (3)	\$150,000 to \$225,000	As Arranged	As Invoiced	Independent Contractors
Builders Risk and OCP Insurance	\$5,000 to \$12,000	As Arranged	As Invoiced	Independent Carrier
Performance Bonds (4)	Renovation: \$12,000 to \$25,000 New Buildout: \$14,000 to \$38,000 (2% - 2 ½ % of Leasehold/Building Improvements)	As Arranged	Start of Construction	Independent Carrier
Furniture, Decor and Fixtures (5)	\$270,000 to \$320,000	Lump Sum or Negotiable	As Invoiced	Vendors
Equipment (6)	Renovation: \$300,000 to \$700,000 New Build-out: \$900,000 to \$1,100,000	Lump Sum or Negotiable	As Invoiced	Vendors

<b>Type of Expenditure</b>	<b>Amount Low – High</b>	<b>Method of Payment</b>	<b>When Due</b>	<b>To Whom Payment is Made</b>
Signs (7)	\$50,000 to \$180,000	Lump Sum or Negotiable	As Invoiced	Independent Vendors
Insurance (8)	\$48,000 to \$100,000	As Arranged	As Invoiced	Independent Carrier
Initial Inventory (9)	\$38,500 to \$62,000	As Arranged	As Invoiced	Independent Vendors
Supplies (10)	\$20,000 to \$35,000	Lump Sum or Negotiable	Vendor's Terms/As Incurred	Vendors
Smallwares (11)	\$20,000 to \$60,000	Lump Sum or Negotiable	Vendor's Terms/As Incurred	Suppliers
Computer Hardware/ Software; POS System/Network Cabling Fees (12)	\$200,000 to \$250,000	Lump Sum or Negotiable	Vendor's Terms/As Incurred	Suppliers
Marketing and Promotional Materials (13)	\$1,000 to \$10,000	Cash	As Incurred	Independent Vendors/Us
Training Costs/ Opening Assistance (14)	\$90,000 to \$139,500	Cash	As Incurred	Independent/ Vendor/Employees
Licenses, Permits, Incorporation (15)	\$25,000 to \$225,000	Cash	As Incurred	Various Agencies
Liquor Licenses (16)	\$1,000 to \$300,000	Cash	As Incurred	Various Agencies
Utility and Telephone Deposits (17)	\$5,000 to \$50,000	Cash	As Incurred	Landlord/Utilities/ Telephone
Other Pre-opening Costs Not Listed Above (18)	\$130,000 to \$255,000	As Arranged	As Incurred	Employees and Various Suppliers
Additional Funds (3 months) (19)	\$442,000 to \$800,000	As Arranged	As Incurred	Employees and Various Suppliers
TOTALS (20)	Renovation: \$2,647,500 to \$5,488,500 New Build-out: \$4,349,500 to \$6,801,500			

**Notes:**

(1) The initial franchise fee is described in Item 5. The preceding chart assumes that you are not an employee of Holdings. We may reduce the initial franchise fee for those persons.

(2) Texas Roadhouse Restaurants range from approximately 7,000 to 10,500-square feet. Restaurants are commercially zoned and may be freestanding or located in shopping centers. The cost of leasehold improvements will be affected by various factors like the location of the Restaurant and local

market conditions. The estimates assume that the landlord will provide connections to adequate electrical, gas, water and sewage service. They do not include any allowance for landlord contributions to leasehold improvements. If your landlord contributes to the cost of finish-out, total leasehold improvement costs will be reduced. These figures are our best estimate based on rates that we have experienced. These estimates may vary substantially based on your ability to negotiate with your landlord or general contractor, as well as on local commercial leasing and labor rates, the availability and prices of materials, and other local conditions. **THESE AMOUNTS DO NOT INCLUDE THE COST OF ACQUIRING LAND, WHICH VARIES WIDELY ACROSS DIFFERENT PARTS OF THE COUNTRY.** You should contact a real estate professional such as a broker or appraiser to determine local costs of land. **THESE AMOUNTS ALSO DO NOT INCLUDE THE COST OF SITE IMPROVEMENTS, WHICH VARY WIDELY ACCORDING TO SPECIFIC SITE CONDITIONS AND LOCAL REQUIREMENTS.** You should contact a contractor or engineer for these costs once you have identified a site for a Restaurant. **THESE AMOUNTS ALSO DO NOT INCLUDE IMPACT FEES WHICH MAY BE ASSESSED BY LOCAL GOVERNING AUTHORITIES.** You should contact the local municipality for these costs once you have identified a site for a Restaurant.

- (3) Includes the cost of a mandatory Phase I environmental audit.
- (4) These amounts are for a performance bond on building improvements only, although the actual performance bond will also cover the cost of site development.
- (5) These amounts include the cost of the furniture, televisions, blinds, fixtures and decor items required for the Restaurant.
- (6) This includes kitchen and bar equipment, juke box, sound system and the possible addition of new coolers, freezers, hoods, safe, water heater, grease guard, and fire alarm system. Equipment costs for renovations are estimated to cost less than new-build outs since some of the existing equipment will generally meet our standards.
- (7) These amounts represent your cost for interior and exterior signage. The cost of signage may vary significantly depending on the location of the Restaurant and market conditions.
- (8) You must obtain the insurance coverage described in the Franchise Agreement. Your cost of insurance may vary depending on several factors like the insurer, the location of the Restaurant, the value of the equipment and improvements, and your claims history.
- (9) We estimate that this amount will cover inventory needs for food, beverages and condiments for approximately the first two weeks of operations (which includes the training week and first week open to the public).
- (10) We estimate that this amount will cover the cost of your stationery, business cards and paper goods for approximately the first month of operation.
- (11) This amount includes your initial order of pans, utensils, dishes and menus.
- (12) You will need the Aloha Table Service point of sale system (POS) and required modules networked on a back-office server and the front-of-the-house order entry terminals. You will need QSR Connect kitchen management system. Point-to-point encryption for chip cards is required. The database for the Aloha POS system will be created and administered by the IT Help Desk, in line with the company-wide database. Additionally, you must have a back-office manager computer for all applications outside of the POS system.
- (13) These amounts include your cost of opening marketing and promotional materials. We may acquire and provide you with marketing and promotional materials developed for use by the Company-

owned Restaurants. (See Item 5) We must approve all marketing items, methods and media you use, including all proposed coupon offers.

(14) We provide initial training for your Operating Principal and the Managers of your first Restaurant at no additional charge but have the right to charge a fee if one of your affiliates has previously established a Texas Roadhouse Restaurant. This chart assumes the Restaurant is your first and that you have no affiliate whose operations would entitle us to charge a fee for initial training. Therefore, these estimates are for the expenses you or your employees incur in the initial training program, like travel, lodging, meals and wages. These costs will vary depending upon your selection of salary levels, lodging and dining facilities, mode and distance of transportation. These estimates also include the travel costs and expenses of the opening support team members for which you are responsible and the daily fee (in an amount equal to their wages and meal expenses) for all members of the opening team in excess of one.

(15) This estimate includes environmental impact fees. You must obtain permits like the following: food service permit, health permit, sales tax permit, building permit, sign permit, and certificate of occupancy permit. The exact type and cost of these permits will likely vary from city to city.

(16) This estimate is based solely on the historical experience of Company-owned and Franchise Texas Roadhouse Restaurants in those states in which we currently have operations. (see Item 20). This number may vary depending upon your location, local laws, and other circumstances applicable to your situation. Some areas may not allow liquor sales, and some states may only have liquor licenses available by purchase from existing license holders.

(17) These amounts include the estimated cost of your utility and telephone deposits.

(18) These amounts include the estimated cost of salaries for kitchen and service employees and the related taxes and insurance, supplies for cleaning and safety, uniforms, utilities, miscellaneous out of pocket items, employee relocation, outside services, professional fees, recruiting fees and laundry services. Also included are costs for occupancy expense, if applicable.

(19) In addition to the initial franchise fee and other initial costs, you will need additional funds to operate your Restaurant during the start-up phase. We have provided estimates of cash reserves (excluding post opening operating deficits, if any) needed for your security deposit and Working Capital, employee background checks and personality assessments, food, beverage and labor costs (including salaries for management and hourly employees and bonuses for management employees), and expenses for utilities, supplies, outside services, uniforms, marketing materials, occupancy expense, credit card charges, e-check processing fees, equipment rent, general liability insurance and professional fees during the start-up phase. These amounts do not include any estimates for debt service or living expenses if you are not the manager. We estimate the start-up phase to be three months from the date the Restaurant opens for business. You must pay the royalty, marketing and other related fees described in Item 6 of this Disclosure Document. These figures are estimates, and we cannot assure you that you will not have additional expenses starting the Restaurant. Your actual costs will depend on factors like your management skills, experience and business acumen; local economic conditions; the local market for the Restaurant's services and products; the prevailing wage rate and competition. You should calculate your estimated expenses for these items based on the anticipated costs in your market and consider whether you will need additional cash reserves.

(20) We relied on our experience and that of Holdings to compile these estimates. (See Item 1) As these estimates are not a guarantee or a maximum, you should review these figures carefully with your business advisor.

Except as specifically stated above, none of the amounts stated above are refundable. Further, except as otherwise stated above, the amounts may be subject to increases based on changes in market conditions, our cost of providing services and future policy changes. Neither we nor any of our affiliates offer any financing for your initial franchise fee or any portion of your initial investment. (See Item 10)



## ITEM 8

### RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES

So that the quality of the products and services you offer under our Marks is consistent, you must purchase or lease items that meet our specifications and standards. Our standards and specifications are in our Manuals and other written materials. We modify standards (including those for suppliers) and specifications by revisions to our Manuals and other periodic written directives to you. You generally have no obligation to purchase or lease from us or from our affiliates any of the products, services, supplies, fixtures, equipment, inventory or real estate used in establishing or operating the Restaurant. However, we may require that you purchase certain items from us or from suppliers we designate or approve. We and/or our affiliate, Holdings, are approved suppliers for some of these items, as further described below, but are not the only approved suppliers. Even if we do not require you to use an approved supplier, we may give you information about suppliers we have used. For example, upon request, we will give you a list of the architects and engineers our affiliates currently use in the construction and remodeling of company-owned Restaurants, but in giving you this list, we are not promising or guaranteeing that their services will be the best for you. None of our officers own any interest in any of our suppliers other than by virtue of ownership in our publicly traded parent company, TXRH, which wholly owns one of our affiliated suppliers, Holdings.

#### **Signage, Equipment, Furniture, Fixtures, Inventory and Related Items; Supplier Approval**

You must comply with our standards and specifications for all food and beverage items, special recipe and proprietary products (including logoed merchandise), ingredients, supplies, materials, fixtures, furnishings, equipment (including computer hardware and software), decor items, signs, catering or delivery vehicles and other products you use or offer for sale at the Restaurant. We may require one or more of these items to be purchased exclusively from us or our affiliate or from an approved third-party supplier.

In general, suppliers we approve are those who demonstrate, to our continuing reasonable satisfaction, their ability to meet our standards and specifications. All suppliers we approve must have adequate quality controls and the capacity to supply your needs promptly and reliably over an extended period of time. We have to approve any supplier in writing before you make any purchases from that supplier. If you wish to purchase, lease or use any items from a supplier we have not approved, you must submit a written request for approval to us, or must ask the supplier to do so. Our representatives must be permitted to inspect the supplier's facilities, and that samples from the supplier be delivered to us or to an independent laboratory for testing. You or the supplier must pay the cost of the inspection and the cost of the test. (See Item 6) This procedure does not obligate us to approve any particular supplier. However, we will notify you within approximately 30 business days after we complete our inspection and evaluation process of our approval or disapproval of any proposed supplier. We may reinspect the facilities and products of any approved supplier and to revoke our approval if the supplier fails to continue to meet our standards.

#### **Special Recipe and Proprietary Products**

We have acquired from Texas Roadhouse Delaware the right to use in the Restaurant certain products that are prepared from highly confidential secret recipes. These products include various seasonings, mixes and sauces, like the Texas Roadhouse seasonings for ribs, sirloin, roasted chicken and baked beans; Texas Roadhouse bread mix, sweet 'n sour mix and cactus blossom breading. You must purchase all of your requirements for these items and other proprietary items we may designate from us or a supplier we designate. Currently, we have designated several unaffiliated manufacturers and/or distributors who supply these products to Texas Roadhouse Restaurants.

We may develop or acquire rights in other special recipe or proprietary products in the future. Because this type of product is so significant to the System and because quality and uniformity of production are so important, it is to our mutual benefit that we closely control the production and

distribution of these products. Therefore, if they do become a part of the System, you must use these products and must purchase them only from us or a source we designate.

### **Marketing and Marks**

All marketing and promotional materials, signs, decorations, paper goods, menus, forms and stationery that you use in the Restaurant or on any Restaurant catering or delivery vehicle (if authorized), and other items we designate must bear our Marks in the form, color, location and manner we require. In addition, you must conduct all your marketing and promotion in any medium in a dignified manner. The marketing and promotional materials you use (including all television, radio, billboard, newsprint, direct mail, and internet marketing and web pages) must conform to our standards and requirements in the Manuals and our other writings. You must get our approval before you use any marketing and promotional materials and plans, and before you extend any coupon offers, if we have not prepared them or approved them during the 12-month period before you propose to use them.

We or our affiliate, Holdings, may also offer you additional marketing and promotional materials developed for use by the Company-owned Restaurants at the cost of production (including creative cost) of these materials, plus a reasonable percentage to cover our administrative expenses.

We estimate that a majority of your expenditures for leases and purchases in establishing your Restaurant and operating your Restaurant on an ongoing basis will be for goods and services which are subject to sourcing restrictions (that is, for which suppliers must be approved by us, or which must meet our standards or specifications).

### **Logoed Merchandise**

All use of our logos on any merchandise or materials must be pre-approved by us. You must purchase items identifying the System (like T-shirts, hats, mugs, sweatshirts and pre-packaged food products bearing our Marks) only from suppliers we designate or approve.

### **Proprietary Computer Software**

You must use only approved and certified software on your point of sale (“POS”) system terminals, back-office PC and Server. You must purchase a support agreement for each piece of POS and back of the house (“BOH”) software installed. You must keep all original software licenses (Operating System, POS, BOH, Host System, MS Office, Virus Detection, and e-mail client) on-site, in a safe place, and readily available at all times. Failure to do so may result in the mandatory re-purchase of the misplaced software.

You must license any back-office software from us or one of our certified vendors and execute a license agreement like the Software License Agreement that is Attachment F to the Franchise Agreement. (See Item 11)

We will require you to purchase any upgrades or enhancements to the software that we develop. (See Item 6) We expect the cost of any software and of any upgrades and enhancements to the software to be insignificant in relation to your purchases/leases for the establishment and operation of the Restaurant.

### **Computer Systems**

You must install and maintain the computer hardware and software (including, without limitation, point of sale software) we require for the operation of the Restaurant and must follow the related procedures that we specify in the Manuals or otherwise in writing. Among other things, we may require you to install and maintain systems that permit us to access and retrieve electronically any information stored in your computer systems, including, without limitation, information concerning Royalty sales, at the times and in the manner that we may specify. You must enter into a Software License Agreement substantially in the

form attached as Exhibit F to the Franchise Agreement for software that we develop or acquire for use in the System and must pay all associated license, maintenance and support fees. All information contained in and collected by any required computer program is our sole and exclusive property.

### **Electronic Communication Systems**

We have established e-mail communications with our franchisees' computer systems. You must install and maintain any equipment, make any arrangements, and follow any procedures we determine to be necessary (including the establishment and maintenance of an Internet access account, phone lines, Contingent network services and the daily transfer of data via the Internet) to permit us to access and retrieve information stored in POS system or on your back office computer systems (including information concerning the Royalty Sales of the Restaurant and other determined key performance indicators) electronically, by telecommunication or any other method we designate.

### **Recorded Music**

You may play only the kind of music we specify in the Manuals. Currently, Texas Roadhouse Restaurants feature country and western music. You may need to obtain the copyright licenses necessary for you to play the music we require. (See Item 6, "Copyright License Expense") If you fail to do so, or if you ask us to do so, we will obtain the copyright licenses for you and charge you for the licenses.

### **Equipment and Other Personal Property Leases**

You must purchase or lease and install at the Restaurant all fixtures, furnishings, equipment (including computer hardware and software), decor items, signs, catering or delivery vehicles and related items that we require. If you lease any of the described property from a third party, we must approve the lease in writing before it is signed. We will not approve the lease unless it allows you to assign your interest to us or one of our affiliates if the Franchise Agreement terminates or expires or if we acquire your interest under Section 14. of the Franchise Agreement (see Item 17) and prohibits the lessor from imposing an assignment or related fee. Unless we first give our written consent, you cannot install or have installed on the Restaurant premises any items like those listed above or any games, vending machines or other items that we have not approved as meeting our standards and specifications.

### **Site Selection and Construction**

You must locate a site for the Restaurant that satisfies our site selection guidelines, obtain our written approval of the site before you acquire it, and obtain our consent to any contract of sale or lease for the Restaurant premises before you sign it. See Item 5 for a description of the fees you pay us relating to site approval. During the 2022 fiscal year, although we have the right to collect these fees, Holdings did not collect any such fees in connection with our review of proposed sites of franchisees. This information is based on the financial records and statements of Holdings. We cannot estimate the cost of these fees as a percentage of your total cost to establish the Restaurant, because they will vary substantially based upon whether the Restaurant is new construction, the number of sites you ask us to review and the amount of reimbursement for our travel, lodging and other out of pocket expenses to review a proposed site. These fees do not affect the cost to operate your Restaurant.

You and the landlord must include in the lease the terms and conditions as described in Attachment C to the Franchise Agreement.

## Vehicles

Any vehicle you use in the operation of the Restaurant must meet our standards for appearance and must have the ability to satisfy the requirements imposed on you under the Franchise Agreement. You must place the signs and other decor items we require on the vehicle and keep it clean and in good working order at all times. You cannot use anyone to operate the vehicle who is under 18 or who does not have a valid driver's license and insurance in the state where you provide services. You must require each vehicle operator to comply with all laws, regulations and rules of the road and use due care and caution in operating and maintaining the vehicle.

## Insurance

The following is a summary of the minimum insurance coverages required under the terms of the Franchise Agreement to operate a Texas Roadhouse Restaurant. Other insurance not specifically listed below may also be required by the state and/or locality in which the Restaurant is located. For a more detailed description of required coverages refer to Section 12 of the Texas Roadhouse Franchise Agreement.

All insurance is to be placed with an insurance company with a minimum financial size category of VI, and a current policyholder minimum rating of "A-" as assigned by A.M. Best & Co., Inc.

All policies, except Workers' Compensation, must name us and Texas Roadhouse Holdings LLC, Texas Roadhouse, Inc., Texas Roadhouse Development Corporation, our and their parent, affiliates, successors and assigns, their respective officers, directors, shareholders, partners, members, agents, representatives, independent contractors and employees of each of them as additional insureds and must include a waiver of subrogation in favor of all parties.

Type	Amount
Commercial General Liability Insurance	Single limit - \$2,000,000 for Bodily Injury/Property Damage Per Occurrence/\$3,000,000 Aggregate
Liquor Liability Insurance	Single limit - \$2,000,000 Per Occurrence/\$3,000,000 Aggregate
Employee Benefits Liability	Minimum - \$300,000 Per Occurrence/\$300,000 Aggregate
Property Insurance	Amount adequate to cover any co-insurance deficiency
Umbrella Liability Insurance	\$10,000,000 for employer's liability \$10,000,000 over basic Comp./GL \$10,000,000 - Products/Completed Operations Aggregate Four Restaurants covered by the same policy: General Aggregate coverage shall be increased by \$1,000,000 for each Restaurant. Nine or more Restaurants covered by the same policy: General Aggregate coverage shall be increased to a minimum of \$15,000,000.
Automobile Liability	Automobile Liability, including Non-owned and Hired Auto Liability, with a combined single limit of \$1,000,000 for Bodily Injury and Property Damage for any one accident
Employment Practices Liability	One to three common-owned Restaurants: \$1,000,000 per claim and aggregate (i.e., third party discrimination) Four or more Restaurants covered by the same policy: \$2,000,000 per claim and aggregate third party (i.e., guest discrimination) All EPL Policies must include 3 <sup>rd</sup> party coverage.

Type	Amount
Business Income Coverage	Amount sufficient to reimburse Franchisee for all direct and indirect loss of income and charges and costs arising out of all named perils insured against by Franchisee's policies of property insurance for at least 180 days.
Workers' Compensation Insurance	Amounts provided by applicable laws
Cyber Coverage	Single limit - \$1,000,000
Cyber Notifications Coverage	100,000 notifications

### **Purchasing Arrangements**

Currently, there are no purchasing or distribution cooperatives. We may require you to purchase certain items from approved suppliers. We and our affiliate, Holdings, negotiate purchase arrangements, including price terms, with certain suppliers on behalf of the System. In doing so, we seek to promote the overall interests of the franchise network and our interests as the franchisor, by, among other things, managing pricing on high volume products.

Holdings sometimes negotiates arrangements with its vendors, primarily food and beverage suppliers, that provide for the payment of sponsorship fees that Holdings uses to offset marketing costs, the cost of our Managing Partners' Conference and similar expenses. During the 2020-2021 fiscal years, Holdings received approximately \$2.7 million in sponsorship fees from vendors which were either applied to offset expenses of the Texas Roadhouse Managing Partners' Conference held in April 2022 or used to pay for system-wide marketing programs. Holdings sometimes negotiates arrangements with suppliers that provide for the payment of rebates based on the volume of purchases by Restaurants from the participating suppliers. During the 2022 fiscal year, these rebates totaled \$25.4 million. Holdings credited the rebates it received in 2022 to the expense accounts of company-owned or franchised Restaurants in proportion to each Restaurant's purchases from the supplier who furnished a rebate.

Holdings permits franchisees to purchase minor interior decor items, memorabilia, opening trailer packages, and other similar items through third party vendors to secure special pricing or delivery terms. All items are provided at cost plus a markup on certain items to cover third party administrative charges paid by Holdings. Shipping charges are passed through at cost. During the 2022 fiscal year, neither we nor Holdings received any revenues on account of franchisee purchases of these items. Holdings received \$742,800 from certain franchisees for accounting and administrative services provided to those franchisees at their request. This information is based on the financial records and statements of Holdings.

Except as described above, during 2022, we and Holdings derived no other revenues or other material consideration as a result of required purchases or leases.

When deciding whether to grant new franchises, we consider many factors, including compliance with the requirements described in this Item 8.

## ITEM 9

### FRANCHISEE’S OBLIGATIONS

THIS TABLE LISTS YOUR PRINCIPAL OBLIGATIONS UNDER THE FRANCHISE AND OTHER AGREEMENTS. IT WILL HELP YOU FIND MORE DETAILED INFORMATION ABOUT YOUR OBLIGATIONS IN THESE AGREEMENTS AND IN OTHER ITEMS OF THIS DISCLOSURE DOCUMENT.

**Key:**

**FA = Franchise Agreement**

	<b>Obligation</b>	<b>Section in Agreement</b>	<b>Item in Disclosure Document</b>
a.	Site selection and acquisition/lease	FA Section 2	Items 8 and 11
b.	Pre-opening purchases/leases	FA Sections 6, 7 and 8	Items 5, 6, 7, 8 and 11
c.	Site development and other pre-opening requirements	FA Section 2	Items 1, 5, 8 and 11
d.	Initial and ongoing training	FA Section 6	Items 5, 6 and 11
e.	Opening	6 FA Sections 2 and 6	Items 7 and 11
f.	Fees	FA Sections 4. and 8	Items 5 and 6
g.	Compliance with standards and policies/Manuals	FA Sections 2, 3, 6, 7., 8, 9, 10, 11 and 12	Items 8, 11, 14 and 16
h.	Privacy	FA Section 6	N/A
i.	Trademarks and proprietary information	FA Sections 9 and 10, Attachment E (Confidentiality Agreement and Ancillary Covenants Not to Compete) and Attachment F (Software License Agreement); Confidentiality Agreement	Items 11, 13, 14 and 15
j.	Restrictions on products/services offered	FA Section 7	Items 8 and 16
k.	Warranty and customer service requirements	FA Section 7	Items 8 and 16
l.	Territorial development and sales quotas	None	N/A
m.	Ongoing product/service purchases	FA Section 7	Items 6 and 8
n.	Maintenance, appearance and remodeling requirements	FA Sections 2, 7 and 14	Items 8 and 11
o.	Insurance	FA Section 12	Items 7 and 8
p.	Advertising	FA Section 8	Items 5, 6, 8 and 11
q.	Indemnification	FA Section 15	Item 6
r.	Owner’s participation/management/staffing	FA Sections 6, 14 and 19	Items 1, 11 and 15
s.	Records and reports	FA Sections 4, 7 and 11	Item 6
t.	Inspections and audits	FA Sections 2, 7 and 11	Items 6, 8 and 11

	<b>Obligation</b>	<b>Section in Agreement</b>	<b>Item in Disclosure Document</b>
u.	Transfer	FA Section 14	Items 6 and 17
v.	Renewal or Extension of Rights	FA Section 3	Items 6 and 17
w.	Post-termination obligations	FA Section 18	Items 6 and 17
x.	Noncompetition covenants	FA Section 10 and Attachment E (Confidentiality Agreement and Ancillary Covenants Not to Compete)	Item 17
y.	Dispute resolution	FA Section 19	Item 17
z.	Agreement and Plan of Reorganization or Exchange	FA Section 14.I. and Exhibit A to Franchise Agreement	Items 1 and 17

## **ITEM 10**

### **FINANCING**

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

## **ITEM 11**

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

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

**Pre-Opening Obligations:** Before you open your Restaurant, we will:

1. Give you our written site selection guidelines and the site selection assistance we deem advisable. (Franchise Agreement, Section 5.A.)
2. Provide the on-site evaluations we believe are necessary for site approval. (Franchise Agreement, Section 5.B.)
3. Loan you a set of prototype architectural and design plans for a Restaurant or, in our discretion, specifications for the Restaurant. You must adapt these plans at your expense for construction or remodeling of the Restaurant, or prepare architectural and design plans for the Restaurant that meet our specifications. (Franchise Agreement, Section 5.C.) You may elect to have us provide certain site work assistance, including inspection and approvals of specific materials and designs required during the construction of the Restaurant. You will be charged a fee ranging between \$11,000 and \$13,000 for this service.
4. Loan you one set of the Manuals. We may revise the contents of the Manuals at any time. (Franchise Agreement, Section 5.D.)
5. In our discretion and at a reasonable cost, license to you certain computer software to use in the Restaurant, under the Software License Agreement (Attachment E to the Franchise Agreement). If we license this computer software to you, we will also make available to you, at a reasonable cost, any upgrades, enhancements or replacements to the software that we develop. (Franchise Agreement, Section 5.E.)

6. Visit the Restaurant for Quality Inspections from time to time as reasonably determined by the Franchisor. (Franchise Agreement, Section 5.F. and 7.E.(6))
7. At our discretion, provide marketing and promotional materials we acquire or develop for local marketing. We may charge a reasonable amount for these materials. We also have the right to review and approve all marketing and promotional materials that you propose to use. (Franchise Agreement, Section 5.G.)
8. At our discretion, provide advice and written materials concerning techniques of managing and operating the restaurant from time to time developed by Franchisor, including new developments and improvements in restaurant equipment and food products and the packaging and preparation thereof. (Franchise Agreement, Section 5.H.)
9. At our discretion, make available to you for resale to your customers certain merchandise identifying the System, like pre-packaged food products and Texas Roadhouse memorabilia, at a reasonable cost to you. (Franchise Agreement, Section 5.I.)
10. Provide you a list of approved and designated suppliers. (Franchise Agreement, Section 5.J.)
11. Provide an initial training program for your Operating Principal and Managers. (Franchise Agreement, Section 5.K.)
12. For the opening of the Restaurant, provide on-site assistance for a period of from 12 to 15 days. (Franchise Agreement, Sections 5.L. and 6.G.(4).)

**Post-Opening Obligations: During the operation of your Restaurant, we will:**

1. Visit the Restaurant and evaluate its products and services at times we reasonably determine. (Franchise Agreement, Section 5.F.)
2. Provide marketing and promotional materials we develop for local marketing at a reasonable cost to you. We have the right to review and approve all marketing and promotional materials that you propose to use. (Franchise Agreement, Section 5.G.)
3. Give you advice and written materials on the techniques of managing and operating the Restaurant, including new developments and improvements in restaurant equipment, food products, packaging and preparation. (Franchise Agreement, Section 5.H.)
4. At our discretion, make available to you for resale to your customers certain merchandise identifying the System, like pre-packaged food products and Texas Roadhouse memorabilia, at a reasonable cost to you. (Franchise Agreement, Section 5.I.)
5. Give you updated lists of approved and designated suppliers as we deem appropriate. (Franchise Agreement, Section 5.J.)
6. Provide additional training programs, seminars, meetings and other related activities which we may require your Operating Principal, Managers and other Restaurant personnel to attend. (Franchise Agreement, Section 6.G.(2))
7. At your reasonable request or as we find appropriate, provide certain on-site remedial training for your Restaurant personnel (Franchise Agreement, Sections 6. G.(5))



8. Establish and administer the Texas Roadhouse Marketing Fund and/or marketing cooperatives, if and when applicable. (Franchise Agreement, Section 8.C. and D.)

As described in Item 1 and in other relevant sections of this Disclosure Document, we may provide some of the pre- and post-opening services listed above directly, or we may provide them using the services of Holdings under our Management Agreement.

### **Site Selection**

**New Franchisees:** You must select a site for the Restaurant that meets our site selection guidelines and must submit the proposed site to us for approval. We will provide you with information containing our written site selection guidelines and any other site selection counseling and assistance that we think is advisable. You must evaluate the demographics of the market area (including the population and income level of residents in the market area), and the size and other physical attributes of the location (including building height, pole sign and building sign requirements), proximity to residential neighborhoods and proximity to shopping centers, entertainment facilities and other businesses that attract consumers and generate traffic. You may also have to conduct aerial photography or secure aerial photographs.

We may also make an on-site evaluation of your proposed site. Factors we consider when evaluating your proposed site include the following, among others: demographics: population, median income, median age, median home value, visibility of a highway interchange, traffic, competitors and neighboring anchor tenants. We, or someone we select, will provide one on-site evaluation for your Restaurant for a fee of \$500. At your reasonable request or if we think it is necessary, we or someone we select will provide additional on-site evaluations. We may charge a reasonable fee for each additional on-site evaluation and may charge for our (or our representative's) reasonable expenses. Expenses may include the cost of travel, lodging and meals.

Before we make any on-site evaluation, you must give us a description of the site, including evidence that the site satisfies our site selection guidelines, and all other information and materials that we may reasonably require, like a letter of intent or other evidence that confirms your favorable prospects for obtaining the site and demographic profile information, including population, income levels and traffic counts within a trade area we designate (like a 5 or 10-mile radius or any another size area we may require). You must give us this information no later than 60 days after the effective date of the Franchise Agreement. We will have 60 days after we receive this information to approve or disapprove your proposed site as the location for the Restaurant. If we do not approve your proposed site, we are not responsible for any costs you may have incurred prior to our decision. You must purchase or lease the site for the Restaurant, at your expense, within 180 days after we approve it. At least 10 business days before the proposed signing date, you must submit to us for review and obtain our consent to any sale or lease contract before you sign it. (See Item 8) You cannot relocate the Restaurant unless you first get our written consent.

We estimate that it will be approximately nine to twelve months from the time you sign the Franchise Agreement to the time the Restaurant begins operations. This time may be shorter or longer depending on factors like those described above for new franchisees. You must open the Restaurant and begin business within 240 days after the effective date of the Franchise Agreement, unless we give you a written extension. Before opening the Restaurant, your Operating Principal, Market Partner (if you are required to have one) and two to four additional Managers must have completed the initial training program, as described below.

Your failure to acquire the site for the Restaurant or train your management team and open the Restaurant for business within the time and in the manner we require is a material default under the Franchise Agreement for which you may be terminated

### **Training**

Your Managing Partner must begin the initial training program no later than one year before the Restaurant begins operations. All other managers must be hired at least 6 months prior to the date on which the Restaurant opens. No later than 180 days before the Restaurant begins operations, your Operating Principal, Market Partner (if you must have one), and three to four additional Managers must begin the initial training program. Training must be completed to our satisfaction no later than 45 days before turnover. If your Operating Principal does not serve as your Managing Partner, one of the additional Managers must be your Managing Partner. A total of four to five people must be trained to manage the new Restaurant. We, or someone we designate, conduct the initial training program at a Restaurant operated by one of our affiliates or at another location we select using MIT Training Materials, and Final Exam Materials and Legendary Learning Materials and training videos, which you must purchase. (See Item 6) Training requires 16 to 18 weeks and covers operational training, management training, kitchen management and general management.

Our training is coordinated and administered by Laura Cobos, Senior Director of Training and People Ms. Cobos has over 25 years of experience with Texas Roadhouse. Currently, our trainers include Directors and Training Managers who have approximately 5 to 20 years of experience with us. We also draw upon the experience of our Managing Partners and other employees of the Restaurant at which the training is conducted.

The initial training program is offered as needed during the year depending on the number of new franchisees entering the System, the number of other personnel needing training and the scheduled opening of new Texas Roadhouse Restaurants.

The materials used in training include the Manuals as well as videos, workbooks, development books and study guides.

#### **TRAINING PROGRAM (1)**

<b>Subject</b>	<b>Hours of Classroom</b>	<b>Days On-The-Job Training</b>	<b>Training Hours per Day</b>	<b>Location</b>
Baking	6	4	7	Restaurant operated by one of our affiliates or at another location we select
Cold Prep	6	5	7-8	Restaurant operated by one of our affiliates or at another location we select
Hot Prep	6	6	7-8	Restaurant operated by one of our affiliates or at another location we select
Salads	6	2	6-7	Restaurant operated by one of our affiliates or at another location we select
Fry	6	3	7-8	Restaurant operated by one of our affiliates or at another location we select
Meat Cutting	6	10	9-10	Restaurant operated by one of our affiliates or at another location we select
Broiler	6	4	7-8	Restaurant operated by one of our affiliates or at another location we select
Point Pull/Push/Support	6	6	7-8	Restaurant operated by one of our affiliates or at another location we select
Bartending	8	5	7-8	Restaurant operated by one of our affiliates or at another location we select
Host	6	5	5	Restaurant operated by one of our affiliates or at another location we select

Subject	Hours of Classroom	Days On-The-Job Training	Training Hours per Day	Location
Food Serving	8	5	5-6	Restaurant operated by one of our affiliates or at another location we select
SA	6	1	5	Restaurant operated by one of our affiliates or at another location we select
DMO/DMO Prep	6	4	7-8	Restaurant operated by one of our affiliates or at another location we select
Administrative	6	5	3-4	Restaurant operated by one of our affiliates or at another location we select
To Go	6	5	5	Restaurant operated by one of our affiliates or at another location we select
Total	94 hours	70 days		

**Notes:**

(1) The initial training program is subject to change without notice to reflect updates in the materials, methods and manuals and changes in personnel. The preceding table is based on a standard 17-week training schedule; however, the initial training program may extend to 18 weeks. The Program is objective based. Each training position has certain objectives that must be achieved before a trainee is qualified in the position. Subjects taught and the time periods allocated for each subject may vary based on the experience of the people being trained.

(2) The training program combines classroom and on-the-job training.

We will determine whether your Operating Principal, Managers (including your Managing Partner), and Market Partner have satisfactorily completed initial training. In our discretion, we may extend the initial training program for any Operating Principal, Manager or Market Partner in order to satisfy ourselves of his or her capabilities. Such an extension may delay the opening of your Restaurant. If anyone initially designated as an Operating Principal, Manager or Market Partner fails to satisfactorily complete our initial training program, or if we determine that they cannot satisfactorily complete the initial training program, you must designate a replacement. Any successor Operating Principal, Manager or Market Partner you later designate with our approval must also satisfactorily complete the initial training program. We may charge a reasonable fee for the initial training we provide to any replacement or successor Operating Principal, Manager or Market Partner and to any initial Operating Principal, Manager or other Restaurant personnel for any Restaurants other than your first that you establish under the System, unless we have approved you to provide the training. (See Item 6)

If we approve you to provide training, you must conduct certain required training (including the initial training program for any Restaurant, other than your first, that you establish) at your expense. We may require you to have any person you train receive our training certification. We may also require you to pay us a reasonable fee to obtain training certification. (See Item 6)

We may require your Operating Principal, Market Partner, Managers and any other Restaurant personnel we designate to attend additional training programs and seminars we offer. We will provide the instructors and training materials for all of these programs and seminars. We may charge a reasonable fee for additional training programs and seminars. (See Item 6)

You must pay all expenses you and members of your organization incur for any training program, whether initial or additional. Expenses may include costs of travel, lodging, meals and wages. (See Item 6)

We provide a significant number of trained representatives to assist you before and immediately after opening. Our current rate for coordinators is \$16 per hour, our current rate for trainers is \$15 per hour, and the meat cutter's rate is the current rate they receive in their home restaurant, averaging around \$16 per hour, plus overtime wages and per diem. Upon our arrival for the opening, you must provide our representative with funds to cover per diem costs. Additionally, you must reimburse each representative (before his departure) for travel expenses. Our representative will provide you with one travel expense report per representative. (See Items 5 and 6)

**Marketing and Advertising**

You must spend 2% of the Royalty Sales of the Restaurant each month on marketing for the Restaurant in its Area of Primary Responsibility. (See Item 12 for a description of the Area of Primary Responsibility) We refer to this as your local marketing obligation. We may provide you with certain marketing and promotional materials and information we develop for use in Local Marketing. We may charge you for these materials. (See Item 6) We must approve all marketing (including marketing you place on the Internet) before you use it. You must give us a marketing expenditure report to show that you have complied with the Local Marketing requirement by the 10th day following the end of the month if that day is a business day. If it is not a business day, then the report is due on the next business day. Costs and expenditures you incur for any of the following cannot be included in your expenditures for local marketing unless we approve them in writing:

1. The cost of honoring any coupons;
2. Research expenditures;
3. Salaries and expenses of your employees, including salaries or expenses for attendance at marketing meetings or activities;
4. Charitable, political or other contributions or donations;
5. In-store materials consisting of fixtures or equipment;
6. Seminar and educational costs and expenses of your employees; and
7. Specialty items like T-shirts, premiums, pins and awards, unless these items are part of a market-wide marketing program and then only to the extent that the cost of the items is not recovered by the promotion.

In May 2001, we established a marketing fund (the "Fund" or "Marketing Fund") that we administer to market the System on a local, regional or national basis. For our fiscal year ended December 27, 2022, the purposes for which we spent Fund contributions were:

General and Administrative	15%
Local Store Marketing Support	30%
National In-Store Promotions	5%
Public Relations	15%
Digital Marketing/Social Media	25%
Branding Initiatives	5%
Menus	<u>5%</u>
	100%

No percentage of the Fund was used to solicit new franchise sales.

Although we are entitled under the Franchise Agreement to establish a contribution rate to the Fund as high as 2.5% of each Restaurant's monthly Royalty Sales, we have elected to begin with a rate of 0.3% of Royalty Sales that must be contributed to the Fund. We may increase the rate of your Fund contribution to a maximum of 2.5% of Royalty Sales, at our discretion. Before we make a decision to increase Fund contributions, we will consider various relevant factors like the level of marketing expenditures by Company-owned Restaurants and by competitors of the Texas Roadhouse System, media costs, available marketing resources, population changes, changes in market conditions and the degree of market penetration by the System. We will give you 30 days written notice before we make any change in your Fund contribution. Contributions must be made at the same time and in the same manner as royalty payments. We may require you to allocate to the Fund all or part of your required Local Marketing expenditures and Cooperative contributions (described below), and we will credit your contributions to the Fund against those other marketing requirements.

We or our designee will maintain and administer the Fund. We will direct all marketing programs and will have sole discretion to approve the creative concepts, materials and media used in the programs and their placement and allocation. The Fund is intended to maximize general public recognition and acceptance of the Marks and improve the collective success of all Restaurants operating under the System. We, or our affiliates, will contribute to the Fund generally on the same basis as you do for Restaurants we or they operate. In administering the Fund, we and our designees are not required to make expenditures for you that are equivalent or proportionate to your contribution or to ensure that any particular franchisee benefits directly or pro rata from the placement of marketing.

We may use the Fund to satisfy the costs of maintaining, administering, directing and preparing marketing materials. This includes the cost of preparing and conducting television, radio, magazine and newspaper marketing campaigns; direct mail and outdoor billboard marketing; public relations activities; employing marketing agencies; and costs of our personnel and other departmental costs for marketing that we administer or prepare internally. We will not use the contributions you make to the Fund to defray any of our general operating expenses, except for any reasonable administrative costs and overhead that we may incur in administering or directing the Fund and marketing programs for you and the System. The Fund and its earnings will not otherwise benefit us. The Fund is operated solely as a conduit for collecting and spending the marketing contributions described above. Any amounts paid to the Fund that are not spent in the year they are collected will be spent in the following year.

We will prepare an annual statement of the operations of the Fund and will make it available to you if you request it. We are not required to have the Fund statements audited.

We reserve the right, upon 30 days' prior written notice to Franchisee, to defer, increase (subject to the maximum level permitted in the Franchise Agreement), reduce or suspend contributions to (and, if suspended, deferred or reduced, to reinstate such contributions) and to suspend operations of, the Fund for one or more periods of any length and to terminate (and, if terminated, to reinstate) the Fund. If the Fund is terminated, all unspent monies on the date of termination will be distributed to the contributors to the Fund without interest in proportion to their respective contributions to the Fund during the preceding twelve (12) month period.

We may also require that you pay us a marketing fee equal to 0.5% of the Restaurant's monthly Royalty Sales, which we will use for market research and to develop promotional and marketing materials for the System. We are not currently charging a marketing fee but may decide to activate the requirement at any time, at our discretion.

Your total required marketing contributions or payments to the Fund, to a Cooperative, for Local Marketing, or for the marketing fee will not exceed 3% of your Restaurant's monthly Royalty Sales.

Although our restaurant concept is not media-driven, to build brand awareness we currently spend a limited amount of marketing dollars on various marketing channels, including billboard, print, radio and television. These advertisements are designed to reflect "Legendary Food, Legendary Service®" as well as our fun and welcoming Restaurant environment. Marketing is presently conducted on a local basis, and we develop most of our marketing. We may market on a national, regional and local basis through the use of the Fund, Local Marketing and Cooperatives in the future.

We have a Business Development Advisory Group ("BDAG") that consists of Managing Partners, Market Partners, and our Executive Team. Managing Partners are selected from both franchise and company-owned restaurants based on their leadership experience and their operational expertise. BDAG's functions are advisory; its members discuss proposals and initiatives from all aspects of our business. We may change or dissolve BDAG at any time.

Although we currently have no marketing cooperatives ("Cooperatives"), we may designate any geographic area in which two or more Restaurants are located as a region for purposes of establishing a Cooperative. The members of the Cooperative for any area will, at a minimum, be all Texas Roadhouse Restaurants in that area, whether franchised, Company-owned or Franchise Restaurants. We will determine in advance how each Cooperative will be organized and governed and when it must start operation. Franchisor does have the power to require the Cooperative to be changed, dissolved or merged. Each Cooperative will be organized for the exclusive purposes of administering marketing programs and developing, subject to our approval, promotional materials for use by the members in Local Marketing. If a Cooperative has been established for a geographic area where your Restaurant is located when the Franchise Agreement is signed, or if any Cooperative is established during the term of the Franchise Agreement, you must sign all documents we request and become a member of the Cooperative. A copy of the Cooperative documents applicable to the geographic area in which your Restaurant will be located (if any) will be provided to you if you request it. You must contribute to the Cooperative the amounts required by the governing documents. However, you will not be required to contribute more than 2% of the Restaurant's monthly Royalty Sales to the Cooperative unless, with our approval, the members of the Cooperative agree to the payment of a higher percentage or fee. Your Cooperative contribution, up to 2%, will be applied toward satisfaction of your Local Marketing requirement. Your contributions to a Cooperative may also be allocated by us to the Fund, as described above. All contributions to the Cooperative will be maintained and administered under the Cooperative's governing documents. The Cooperative will be operated solely as a conduit for the collection and expenditure of the Cooperative contributions for the purposes outlined above. No marketing or promotional plans or materials may be used by the Cooperative or furnished to its members without first obtaining our approval. The Cooperative is not required to prepare annual nor periodic financial statements. Our Communication Department must approve the content of any Internet marketing you develop, including any web pages, social media and digital branding. All Internet marketing, digital marketing or social media that promotes or refers to "Texas Roadhouse" or your Restaurant must be approved by us. All web design must be submitted electronically for approval. You may link your web site to external sources only with our approval. You will be solely responsible for any and all web design costs.

Except as described above, we are not obligated to spend any amount on marketing in the area where your Restaurant is located. Neither the Fund nor any Cooperative will use any funds for marketing that is principally a solicitation for the sale of franchises for Restaurants.

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

You must purchase the required point of sale system, which is currently Aloha Point of Sale (Table Service) by NCR (the "POS System"). We also require OLO, Switchboard, Guest mobile app, Ziosk pay at table, QSR Connect Kitchen System and AGM guest management system. . The POS System typically

consists of the Aloha software, an Aloha Server PC, a Windows-compatible back-office server and computer, six or more touch screen terminals and four to five impact kitchen printers, as well as thermal receipt printers and the front of house order entry terminals. Other recommended equipment may include UPS battery backup, line conditioners, surge protectors, back-office printer, etc. The POS System registers food and beverage orders and transmits the orders to the bar and kitchen areas. It also tracks server sales, credit cards, items sold, guest counts, check averages, product mix, and payroll and tip information and generates various daily reports pertaining to this information. The Aloha software, hardware and installation services must be purchased through us, and we may contract out portions of these processes to approved vendors. Average cost per Restaurant for the POS System is approximately \$80,000. Additionally, you must have a back-office manager computer for all applications outside of the POS System. Annual Maintenance for the POS System and BOH System averages approximately \$1,000 to \$1,500 per Restaurant. Before purchasing your POS System, you must contact us to discuss equipment placement, wiring, programming, menu and training, all of which must be approved by our IT department. Our IT department also approves all vendor substitutions that pertain to the POS System.

Our back office and Labor Management software is currently Menulink.net, which we recommend for use in your Restaurants. If you have Menulink.net as your back-office application system, the annual maintenance costs of \$621 per restaurant. You must also purchase Help Desk Support and hardware support from our IT department (See Item 6) or our pre-approved Aloha Help Desk provider/hardware vendor, for the maintenance and support of your hardware, POS software and basic operating software, including but not limited to the OS, MS Office applications, and other required operating software. The database for the POS System will be created and administrated by the IT Help Desk, in line with the company-wide database. Additional support for approved optional back-office applications may require additional fees from our vendors. Network wiring must be installed through the IT Help Desk and will be contracted to an approved network cabling installer that uses only approved cables, connectors, conduit, and can certify a minimum 100Mbps network transmission speed over appropriate wiring that conforms to all local, state and federal building codes.

Our IT department will require you to periodically upgrade your network hardware, POS System, BOH System and supporting software (most current version of Aloha software, Windows Operating System, MS Office Suite, Endpoint Protection software, and Outlook e-mail client). There are no contractual limitations on the cost or frequency of your obligation to upgrade or update any network hardware, computer hardware or computer software unless the upgrade or update is considered a capital improvement. You must make capital improvements on or before the 3rd anniversary of the Opening Date of your Restaurant or at any other time that a majority of our company-owned Texas Roadhouse Restaurants have made or are using their best efforts to make such improvements, or as necessary for compliance.

You are required, at all times, to be compliant with the applicable Payment Card Industry Data Security Standards, hereinafter referred to as "PCI-DSS," and all requirements therein. You must also verify your compliance with the PCI-DSS annually as dictated by the PCI counsel. For additional information regarding PCI-DSS, please visit the following website: <https://www.pcisecuritystandards.org/>. Security baselines and maintenance must be followed and maintained in accordance with company-owned restaurants. This includes, but is not limited to, network configurations, operating systems, software, and computer policies. As an additional reference a responsibility and requirements matrix is included in our Manuals. In the event of notification of a credit card breach, you must notify us immediately and cooperate fully with us on all matters of the investigation up to and including media communication and incident resolution. Data must be stored on Texas Roadhouse hosted IT platforms such as BOH computer and Office 365 and all third-party cloud platforms require approval. Data retention must be performed per Texas Roadhouse guidelines or local state guidelines. Sensitive data should be stored in secured areas or with protection systems that require authentication and encryption should be used when possible and/or when required by law.

We require that data usage be pulled from existing data usage policy. Data privacy should conform to data privacy standards set by Texas Roadhouse and are subject to change.

We currently require you to contract with Comcast Network Solutions to install a private, high-speed network and obtain Internet access with e-mail capability to give us access to the information stored on your computer systems. Comcast Network Solutions is our approved vendor for internet access that allows data transmission and credit card and gift card processing via our approved payment processor. We may change this requirement as technological advancements occur.

You must afford us access to the information stored on your computer system at the times and in the manner we specify. There are no contractual limitations on our right to access this information. It is a material event of default under the Franchise Agreement if you fail to make this information accessible to us at all times throughout the term of the Agreement and we may assess you a reasonable charge for any failure to do so without limiting our other rights under the Agreement.

We require that you participate in our electronic gift card program and obtain any equipment necessary to operate the company-approved system.

## **ITEM 12**

### **TERRITORY**

You will not receive an exclusive territory. You may face competition from other franchisees, from Company Restaurants, or from other channels of distribution or competitive brands that we control.

The Franchise Agreement gives you the right to operate a Texas Roadhouse Restaurant at a single location that you select, and we approve ("Approved Location"). You must select your location from within a NONEXCLUSIVE geographic area described in Attachment D to the Franchise Agreement. We call this your Designated Area. Once you have selected a location and we have approved it, we will insert the specific street address of the Approved Location in Attachment A. You must operate the Restaurant only at your Approved Location. You cannot relocate the Restaurant unless we first give you our written consent. If you are unable to continue the operation of your Texas Roadhouse Restaurant at the Approved Location because of the occurrence of a force majeure event (as described in Section 19.F of the Franchise Agreement), then you may request our approval to relocate the Restaurant to another location in the Assigned Area. Any other request to relocate the Restaurant shall also be subject to the same procedures. If we elect to grant you the right to relocate the Restaurant, then you shall comply with the site selection and construction procedures set forth in Section II of the Franchise Agreement.

When we approve the location for your Restaurant, we will also assign you a primary area of operation that will be described in Attachment D to the Franchise Agreement. We call this your Assigned Area. We will describe your Assigned Area by boundary streets or highways, city limit or county line boundaries, by an area encompassed within a radius of a specific distance or range of distances or by other comparable methods. **ASSIGNED AREAS ARE SITE SPECIFIC AND MAY RANGE FROM A MINIMUM OF THE RESTAURANT LOCATION ITSELF UP TO A MAXIMUM RADIUS OF 10 MILES FROM THE RESTAURANT LOCATION.** We will determine the Assigned Area based on various market and economic factors like an evaluation of market demographics, the market penetration of the System and similar businesses, the availability of appropriate sites and growth trends in the market.

**IF YOU ARE IN COMPLIANCE WITH THE FRANCHISE AGREEMENT AND ANY OTHER AGREEMENT, WE OR OUR AFFILIATES MAY HAVE WITH YOU OR YOUR AFFILIATES, THEN (WITH CERTAIN EXCEPTIONS) DURING THE TERM OF THE FRANCHISE AGREEMENT, WE**

**AND OUR AFFILIATES WILL NOT ESTABLISH OR AUTHORIZE ANYONE EXCEPT YOU TO ESTABLISH A TEXAS ROADHOUSE RESTAURANT IN YOUR ASSIGNED AREA. THE PRIMARY EXCEPTION TO THIS GENERAL PRINCIPLE IS OUR ABILITY AND THAT OF OUR AFFILIATES TO OPEN A TEXAS ROADHOUSE RESTAURANT OR OTHER FOOD SERVICE**



FACILITY IN ANY RESERVED AREA (DEFINED BELOW), EVEN IF THAT RESERVED AREA IS WITHIN YOUR ASSIGNED AREA. Specifically, in a Reserved Area, we or our affiliates can offer and sell, and authorize others to offer and sell, food and beverage products and services under the Marks at or through any Texas Roadhouse Restaurant or other permanent, temporary or seasonal food service facility, that provides some or all of the products and services offered by a Texas Roadhouse Restaurant. A Reserved Area is any enclosed area of retail sales stores exceeding 250,000 square feet, food courts, airports, hospitals, cafeterias, commissaries, schools, hotels, stadiums, arenas, military installations, ballparks, festivals, fairs and other mass gathering locations or events.

We and our affiliates can also:

- (i) advertise and promote the System within and outside the Assigned Area;
- (ii) operate, and license others to operate, Texas Roadhouse Restaurants at any location outside the Assigned Area, including location that are adjacent to the Assigned Area;
- (iii) except for the restriction against the establishment of another full-service Texas Roadhouse restaurant in the Assigned Area, offer and sell and authorize others to offer and sell collateral products and services including those offered and sold at Texas Roadhouse Restaurants (like pre-packaged food products, t-shirts and other Texas Roadhouse memorabilia) under the Marks or other marks at or from any location or through any channel of distribution other than a full-service Texas Roadhouse Restaurant (including grocery stores, catalogs, the Internet, other retail or restaurant locations, and other food service facilities such as kiosks, concessions, or multi-brand facilities) providing a limited number or representative sample of the products and services normally offered by a full-service Texas Roadhouse Restaurant;
- (iv) establish and operate and license others to establish and operate any business other than a full-service Texas Roadhouse Restaurant, including other restaurants or food related businesses, under the Marks or under other marks, including restaurants or other businesses that Franchisor or its affiliates may acquire or be acquired by, merge or consolidate with; and
- (v) establish and operate, and license others to establish and operate, full-service Texas Roadhouse Restaurants and other food service facilities in any Reserved Area whether or not located within the Assigned Area.

The continuation of your territorial protection does not depend on your achievement of a certain sales volume, market penetration or other contingency, but you must remain in compliance with the terms of the Franchise Agreement.

We and any other authorized person, including any other franchisee, also may market and promote the System and fill customer orders by providing catering and delivery services (if authorized), without any compensation to you, in the Assigned Area.

Under the Franchise Agreement, WE ALSO DESIGNATE A NONEXCLUSIVE GEOGRAPHIC AREA THAT WE CALL YOUR AREA OF PRIMARY RESPONSIBILITY. THIS IS THE AREA IN WHICH YOU MUST MARKET AND PROMOTE THE SYSTEM IN ACCORDANCE WITH YOUR LOCAL MARKETING OBLIGATIONS. (See Item 11) The Area of Primary Responsibility is not exclusive for any purpose, except to the extent that it includes the Assigned Area, which is also not exclusive.

We do not grant any options, rights of first refusal or similar rights to obtain additional Restaurant locations. If you wish to obtain an additional location, you must enter into a new Franchise Agreement for that location. You cannot establish another Texas Roadhouse Restaurant unless you enter into a separate Franchise Agreement for that restaurant, you are current in all payments owed to us, and you are not in violation of any terms of the Franchise Agreement.

We also currently offer licensed and retail products. Texas Roadhouse business through any alternative channels of distribution. We do not currently operate, franchise, or conduct Texas Roadhouse business under any marks other than the Marks. However, as of December 27, 2022, our affiliates, Bubba’s Holdings, LLC (“Bubba’s”) owns and operates 40 Bubba’s 33 restaurants which is a family friendly sports restaurant with a broad-based menu. In addition, as of December 27, 2022, Jagers Development Corporation (“Jagers”) owns and operates 5 Jagers restaurants which are quick service restaurants. Bubba’s and Jagers maintain their principal place of business at 6040 Dutchmans Lane, Louisville, Kentucky 40205. We may in the future engage in other forms of distribution as permitted by the Franchise Agreement.

**ITEM 13**

**TRADEMARKS**

The Franchise Agreement gives you a license to operate the Restaurant under the Mark “Texas Roadhouse” and to use any future Marks we authorize.

The following trademarks are registered on the Principal Register of the U.S. Patent and Trademark Office (“USPTO”):

Trademark	Federal Registration Number	Date of Registration
TEXAS ROADHOUSE AND DESIGN	1,833,533	April 26, 1994
TEXAS ROADHOUSE	2,231,309	March 16, 1999
TEXAS ROADHOUSE & DESIGN (Armadillo)	2,361,062	June 27, 2000
TEXAS ROADHOUSE & DESIGN (Signage)	2,250,966	June 8, 1999
TEXAS ROADHOUSE AND DESIGN (Horizontal)	4,476,744	February 4, 2014

These 5 Marks are referred to collectively as the “Registered Marks.” All required affidavits have been filed.

To provide an extra measure of protection, it is the owner’s policy to file applications to register the TEXAS ROADHOUSE mark in each state in which a Texas Roadhouse Restaurant begins operating. The Registered Marks, Additional Marks and any other mark authorized for use in the System may be referred to as the “Marks.”

In October 1997, but effective April 1, 1997, Mr. W. Kent Taylor (late founder of Texas Roadhouse and the Texas Roadhouse concept) assigned his rights in the Marks to Holdings, as part of a general reorganization of business interests. Holdings has subsequently assigned its interest in the Marks to Texas Roadhouse Delaware as part of a further reorganization of business interests.

We have a nonexclusive license from the owner of the Marks giving us the right to use the System and the Marks for the purpose of licensing them to our franchisees and fulfilling our obligations under the Franchise Agreements. The license is terminable only for material breach of the license agreement and only if we do not cure or begin to cure the breach within 10 days after notice. Except for the license agreement we know of no agreements currently in effect which significantly limit our rights to use or license the use of the Marks in any manner material to the franchise.

There is no presently effective determination of the USPTO, the Trademark Trial and Appeal Board, the trademark administrator of any state or any court, nor any pending infringement, opposition, or

cancellation proceeding, nor any pending material litigation involving the Registered Marks which are relevant to their ownership, use or licensing.

Except as described below, we know of no superior prior rights or infringing use that could materially affect your use of the Marks.

In December 1997, we (along with Mr. Taylor and one of our licensees) settled a federal court lawsuit which had been filed against Myrtle Town Restaurant, Inc., a company operating a Texas Roadhouse Grill restaurant in Myrtle Beach, South Carolina (Civil Action 4:96-1081-22 in the United States District Court for District of South Carolina, Florence Division). Under the settlement, Myrtle Town has agreed not to open a Texas Roadhouse Grill restaurant in any other counties or states, has assigned its South Carolina state registration for the mark "Texas Roadhouse Grill (plus design)" to Mr. Taylor, and has agreed to abandon its federal trademark application to register the mark "Texas Roadhouse Grill & Design." As a part of the settlement, Myrtle Town is authorized to operate Texas Roadhouse Grill restaurants in the counties of Marion, Georgetown, Horry and Williamsburg, South Carolina and we have agreed not to operate restaurants in those counties. Myrtle Town is further authorized to operate Texas Roadhouse Grill restaurants in the counties of Florence, Richland, Lexington, and Charleston, South Carolina and New Hanover County, North Carolina, although we are authorized to operate restaurants in those counties as well. Myrtle Town has agreed not to open a restaurant within five miles of any location which we identify to it in writing as a possible restaurant. The agreement with Myrtle Town will be effective for so long as Myrtle Town operates Texas Roadhouse Grill restaurants in Marion, Horry and/or Williamsburg counties of South Carolina.

In addition, in May 1998, our trademark counsel advised counsel for West Texas Roadhouse, a restaurant operating in St. Clairsville, Ohio, of our belief that the West Texas Roadhouse trade name and service mark is an infringement of the "Texas Roadhouse" trade name and service mark, including an infringement of the federal registration for that Mark. In order to avoid the time and expense of litigation, Holdings entered into an agreement that allows West Texas Roadhouse to continue to operate under its name only in the city of St. Clairsville, Ohio and the surrounding county of Belmont. Holdings has agreed to not operate any restaurants in that area under the Texas Roadhouse name or Marks.

You must immediately notify us of any infringement of the Marks or of any challenge to the use of any of the Marks or claim by any person of any rights in any of the Marks. You and your Controlling Principals must agree not to communicate with any person other than us, any designated affiliate and our or their counsel about any such infringement, challenge or claim. We or our affiliate have sole discretion to take any action we deem appropriate and the right to exclusively control any litigation, or Patent and Trademark Office (or other) proceeding, arising out of any infringement, challenge or claim concerning any of the Marks. You must execute all instruments and documents and give us any assistance that in our counsel's opinion may be necessary or advisable to protect and maintain our interests or those of our affiliate in any such litigation or proceeding or to otherwise protect and maintain our or their interest in the Marks. We are not obligated to protect your rights to use the Marks or to protect you against claims of infringement or unfair competition. The Franchise Agreement does not require us to participate in your defense and/or indemnify you for expenses or damages if you are a party to an administrative or judicial proceeding involving a trademark licensed by us to you.

**YOU MAY NOT USE ANY OF THE MARKS AS PART OF YOUR CORPORATE OR OTHER NAME.** You must also follow our instructions for identifying yourself as a franchisee and for filing and maintaining the requisite trade name or fictitious name registrations. You must execute any documents we or our counsel determine are necessary to obtain protection for the Marks or to maintain their continued validity and enforceability. Neither you nor your Controlling Principals may take any action that would prejudice or interfere with the validity of our affiliates' rights with respect to the Marks and may not contest the validity of our or our affiliates' interest in the Marks or assist others to do so.

Your license to use the Marks is non-exclusive, and, subject to the limitations described in Item 12, we have the right, among others:

- (1) to grant other licenses for use of the Marks;
- (2) to develop and establish other systems using the Marks or other names or marks, and to grant licenses or franchises without giving you any rights; and
- (3) to engage, directly or indirectly, at wholesale, retail or otherwise, in (a) the production, distribution, license and/or sale of products and services and (b) the use in connection with such production, distribution, license, and sale, of the Marks and any and all trademarks, trade names, service marks and other identifying characteristics that we may develop or use now or in the future.

We may substitute different trade names, service marks, trademarks and indicia of origin for the Marks if the Marks can no longer be used, or if we determine that the substitution will be beneficial to the System. If we do, we may require you to discontinue or modify your use of any Mark or use one or more additional or substitute Marks at your expense.

## **ITEM 14**

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

We do not own any patents that are material to the franchise. We claim copyright protection and proprietary rights in the original materials used in the System, including our Manuals, recipes, bulletins, correspondence and communications with our Franchisors, training, marketing, and promotional materials, and other written materials relating to the operation of the Restaurant and the Texas Roadhouse System. In April 2008, we registered our neon logo design with the U.S. Copyright Office, registration number VA 1-650-931. The expiration date for our neon logo design Copyright is December 31, 2091. In September 2010, we registered two menu designs with the U.S. Copyright Office, registration numbers are TX 7-318-838 and TX 7-318-909. The expiration dates for the menu designs are December 31, 2105 and December 31, 2096, respectfully. We will make the determination whether or not to renew any copyright before its expiration date.

There is no presently effective determination of the U.S. Copyright Office (Library of Congress) or any court affecting our copyrights. There is no currently effective agreement that limits our right to use and/or license our copyrights. We are not obligated by the Franchise Agreement, or otherwise, to protect any rights you have to use the copyrights or to defend you against claims arising from your use of the copyrighted item and are not required to indemnify you in a proceeding involving a licensed copyright. We have no actual knowledge of any infringements that could materially affect the ownership, use or licensing of the copyrights.

We treat all of this information as trade secrets and you must treat any of this information we communicate to you confidentially. You and your Controlling Principals must agree not to communicate or use our confidential information for the benefit of anyone else during and after the term of the Franchise Agreement. You and your Controlling Principals must also agree not to use our confidential information at all after the Franchise Agreement terminates or expires. You and your Controlling Principals can give this confidential information only to your employees who need it to operate the Restaurant.

In addition, if you, your Principals, or your employees develop any new concept, process, recipe, menu item, improvement, invention, or work of authorship in the operation or promotion of the Restaurant, you must promptly notify us and give us all necessary information about the work product, without compensation. Any such work product will inure to our benefit and will become our property, and you and your Controlling Principals must assign us your rights in the work product and cooperate with us to protect

our interest. We may use or disclose the work product to other franchisees and to our affiliates, successors and assigns, as we deem appropriate.

You must have any Managing Partner who is not otherwise signing the Franchise Agreement as a Controlling Principal, as well as your other Managers and any of your personnel who have received or will have access to our confidential information, sign similar covenants. Your Principals also must execute these covenants. (See Item 15)

## **ITEM 15**

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

When the Franchise Agreement is signed, you must designate an individual to serve as your Operating Principal. If you are an individual, you will be the Operating Principal. If you are not an individual, the Operating Principal must be one of your Controlling Principals, must hold an ownership interest in you or in an entity that directly or indirectly controls you, and must meet our standards and criteria for an Operating Principal. Your Operating Principal may not pledge, mortgage, hypothecate, lien, charge, or encumber his ownership interest, or subject it to a voting agreement, proxy, security interest or purchase right or option, unless permitted under the terms of the Franchise Agreement.

Your Operating Principal must devote his or her substantial full time and best efforts to the operation of the Restaurant. He or she must sign the Guaranty and Assumption Agreement as one of your Controlling Principals and will be individually, jointly and severally bound by all of your obligations and the obligations of the Operating Principal and your Controlling Principals under the Franchise Agreement. (See Item 1)

You must also designate a Managing Partner when the Franchise Agreement is signed. Your Managing Partner may, but need not, be the same person as your Operating Principal. If the Operating Principal designates another person to serve as the Restaurant's Managing Partner, the Operating Principal must ensure that the person he or she designates fulfills all of the Managing Partner's obligations under the Franchise Agreement, and the Operating Principal will remain fully responsible for that performance.

If your Operating Principal cannot continue to serve, or no longer qualifies, as your Operating Principal, you must promptly notify us and designate and hire a replacement within 60 days. Any replacement Operating Principal will be subject to the qualifications listed above. You must provide for interim management of the Restaurant until you designate a replacement. This interim management must be conducted in compliance with the Franchise Agreement.

The Managing Partner is responsible for the daily operation and management of the Restaurant and must devote his or her full time and best efforts to this activity. The Managing Partner has day-to-day responsibility for the Restaurant's compliance with our standards regarding training, service, and kitchen shift staffing requirements, wait person station size and kitchen food quality, plate presentation, temperature and preparation time guidelines and must at all times make sure that our standards are met. Your Managing Partner must satisfy our educational and business criteria and must be acceptable to us. Your Managing Partner must also satisfy the training requirements in the Franchise Agreement. If a Managing Partner can no longer serve in the position or does not continue to meet our requirements for the position you must replace that person within the same time period and under the same conditions described above for your Operating Principal.

The qualifications and experience of the Managing Partner are essential to the successful operation of the Restaurant and the System. Accordingly, you must therefore compensate the Managing Partner at a level commensurate with the skills and experience required and such compensation shall include a bonus

or profit-sharing pay component that is a significant portion of the Managing Partner's total compensation. We do not specify a minimum compensation package for Managing Partners, but we reserve the right to review and approve the compensation package you offer.

Before you open your second Restaurant, you must hire a Market Partner to supervise all of your Restaurants. In counting the number of Restaurants you operate for purposes of this requirement, we include those you control through affiliates. The Market Partner is responsible for ensuring that the managers of each of your Restaurants comply with system standards, and must devote his or her full time and best efforts to this activity. Ordinarily, a Market Partner may not supervise more than eight Restaurants, so you must add another Market Partner when you open your ninth Restaurant, unless we agree that your Market Partner is capable of supervising more than eight units. Your Market Partners must satisfy our educational and business criteria and must be acceptable to us. They must also satisfy the training requirements in the Franchise Agreement. If a Market Partner can no longer serve in the position or does not continue to meet our requirements for the position, you must replace that person within the same time period and under the same conditions described above for your Managing Partner.

Your Market Partner may, but need not, be the same person as your Operating Principal. However, we must consent in writing to any person designated by the Operating Principal as Market Partner. If we withhold our consent, you must designate another individual to serve as Market Partner. Your Market Partner must be allowed to purchase an ownership interest in you, and in your affiliates which operate Restaurants for which he or she has been designated as the Market Partner. Alternatively, you may provide a similar arrangement whereby the Market Partner would be entitled to some percentage of the proceeds of a sale of a Restaurant under his or her supervision after five years of employment.

The qualifications and experience of your Market Partners are critical to the successful operation of your Restaurants and the Texas Roadhouse System. You must therefore compensate your Market Partners at a level commensurate with the skills and experience a multi-restaurant supervisor must possess. We do not specify a minimum compensation package for Market Partners, but we reserve the right to review and approve the compensation package you offer, as well as the amount and timing of ownership interest you allow the Market Partner to purchase or other arrangement.

If you employ anyone as a Managing Partner, Market Partner or in another managerial position who is at the time, or who was within the previous 90 day period, employed by us or any of our affiliates or by another of our franchisees in a managerial position, you must (unless you have the former employer's consent) pay that person's former employer for the reasonable costs and expenses he incurred for the employee's training, as described in Item 6.

You must have your Managing Partner, Market Partner and any of your other personnel who have received or will have access to our training or other confidential information sign covenants not to compete and covenants that they will maintain the confidentiality of information they receive or have access to in the course of their relationship with you. (See Item 14) These covenants will be in substantially the form attached to the Franchise Agreement as Attachment E. Your Principals also must execute these covenants. However, we may decrease the period of time or geographic scope of the noncompetition covenants or eliminate the noncompetition covenant altogether for any party that is required to execute an agreement described in this paragraph. (See Item 17)

## ITEM 16

### RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL

You must comply with our standards and specifications for the purchase of all food and beverage items, ingredients, supplies, materials, fixtures, furnishings, equipment (including computer hardware and software) and other products you use or sell at the Restaurant. To ensure compliance with our standards and specifications, before purchasing any furniture, fixtures, and equipment for the Restaurant, you must submit detailed specifications for those items to us for our approval. You must keep a sufficient supply of, and use and sell only, the food and beverage items, ingredients, products, materials, supplies and paper goods that conform to our standards and specifications. To ensure that the highest degree of quality and service is maintained, you must operate the Restaurant in strict conformity with our methods, standards and specifications, including among others, our standards regarding recruiting, staff selection, training, service and kitchen shift staffing requirements, wait person station size and kitchen quality, plate presentation, temperature and preparation time guidelines. These are described in our Manuals and other writings. You must not deviate from our standards and specifications unless we first give you written consent. You must also comply with all applicable laws and regulations and secure all appropriate governmental approvals for the Restaurant.

You must offer and sell all menu items, products and services we require, using the method, manner and style of distribution we require. This may include dine-in, carry-out, catering and delivery as we expressly authorize in writing. You must comply with the terms of any distribution program we authorize and must execute the documents or instruments we believe are necessary to the program.

You must offer and sell only the menu items, products or services that we have expressly approved in writing. We reserve the right, to the fullest extent allowed by the applicable law, to establish maximum, minimum, or other pricing requirements with respect to the prices that you may charge for products or services.

You must discontinue any menu items, products or services and any method, manner or style of distribution that we may disapprove in writing at any time. There are no limits on our right to change the authorized products and services. You must prepare all menu items with our recipes and using the procedures for preparation contained in our Manuals or other written instructions, including the measurements of ingredients. ***You must not use or offer nonconforming items or differing amounts of any items, unless we first give you our written consent. If you deviate from our standards in the Manuals, we may charge you \$1,000 per offense for failing to conform to our standards, including the use or offer of nonconforming items.***

You must keep the Restaurant very clean in compliance with our Sanitation Standard Operating Procedures and maintain it in good repair and condition. You must make any additions, alterations, repairs and replacements that are necessary, including those we may reasonably direct, but no others unless we first give you our written consent. You must secure any new or additional equipment, fixtures, supplies, products and materials that we require you to have in order to offer and sell new menu items or to provide the Restaurant's services by alternative means, like carry-out or delivery arrangements.

We may ask you to make other improvements to modernize the Restaurant premises, equipment, signs, decor, fixtures, furnishings, and other items necessary to operate the Restaurant and conform them to our current standards and specifications. If we ask you to, you must make capital improvements or modifications to the Restaurant (i) any time on or before the third anniversary of the date the Restaurant opens for business, or (ii) any time that a majority of the Texas Roadhouse Restaurants we or our affiliates operate have made the improvements or modifications, or are exerting their best efforts to make them.

You must maintain a competent, conscientious, and trained staff to operate the Restaurant and must take the steps necessary to ensure that your employees preserve good customer relations, and comply with

our dress code. All marketing and promotional materials, billboards, signs, decorations, and paper goods that you use in the Restaurant and on any Restaurant catering or delivery vehicles, must bear Marks in the form, color, location and manner we specify.

We or our affiliates have developed certain products for use in the System that are prepared from highly confidential recipes and that are our trade secrets. Because of the significance of these products in the System, it is to our mutual benefit that we closely control the production and distribution of the products. You must use our secret recipe products. You must purchase all of your requirements for these products only from us or from a source we designate.

We may also make available to you and may require you to purchase from us for resale to your customers certain merchandise, like pre-packaged food products and Texas Roadhouse memorabilia bearing the Marks, in amounts necessary to meet your customer demand. You must purchase these and all other items identifying the System only from us or from a source we designate or approve. (See Item 8)

If we ask, you must enter into the Software License Agreement attached as Attachment F to the Franchise Agreement and must use any proprietary software we develop in accordance with the terms and conditions of the Software License Agreement.

Any vehicle that you use to deliver Restaurant products and services to customers must meet our standards. You must place the signs and décor items we require on the vehicle and must keep the vehicle clean and in good working order. You may not allow anyone to operate a motor vehicle used to provide services under the Franchise Agreement who is under 18, who does not have a valid driver's license under the laws of the state in which you provide services or who does not have insurance. You must require each of these individuals to comply with all laws, regulations and rules of the road and to use due care and caution in the operation and maintenance of the motor vehicle. Except as described above, we do not set any standards or exercise control over any motor vehicle that you use.

You must play in the Restaurant only the recorded music that we require and must properly maintain all landscaping and lighting based on our standards. Currently, you must enhance all landscaping each new growing season and illuminate the Restaurant's sign at all times during which the Restaurant is open and for two hours each before dark and after closing. You must also adhere to the days and hours of operation for the Restaurant that we prescribe in the Manual or in other written materials.

You must participate in, and comply with the requirements of, any gift card, gift certificate, customer loyalty or retention program that we implement, at your expense, for all or part of the franchise System and you must sign the forms and take any action that we require for you to participate in such programs. You must honor coupons, gift cards, gift certificates, or vouchers sold or distributed by other Texas Roadhouse locations and include the related proceeds in Royalty Sales. You also must utilize a vendor we approve for gift card processing. Any coupon offer you propose must be approved by us under Section 8.G. of the Franchise Agreement before you may extend the offer.

California residents, see the California Addendum to the disclosure document for additional disclosures required by California law.



**ITEM 17**

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

**THE FRANCHISE RELATIONSHIP**

**This table lists certain important provisions of the Franchise and other agreements dealing with termination, renewal, transfer, dispute resolution and other important aspects of the franchise relationship. You should read these provisions in the sample Franchise Agreement and Exhibits attached to this Disclosure Document.**

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
a.	Length of the franchise term	Section 3.A.	Unless terminated earlier, term continues until the earlier of 10 years from the date the Restaurant opens for business or the expiration or termination of your right to possess the Restaurant premises.
b.	Renewal or extension of the term	Section 3.B.	Agreement may be renewed at your option for 2 additional 5-year terms.
c.	Requirements for franchisee to renew or extend	Section 3.B.(1)-(8)	<p>Your renewal right permits you to remain as a franchisee after the initial term of your franchise agreement expires. However, to remain a franchisee, you must meet all required conditions to renewal including signing our then-current form of franchise agreement, which may be materially different than the form attached to this Disclosure Document.</p> <p>You must give at least 6 but not more than 12 months' notice; repair and replace equipment and related items and update Restaurant premises; not be in breach of any agreement with us or our affiliates and have timely satisfied all monetary obligations to us and them; have the right to remain in possession of Restaurant premises; pay renewal fee; sign then-current agreement (which terms and conditions may materially differ from the original agreement) and general release; and comply with then-current qualification and training requirements.</p>
d.	Termination by franchisee	Not Applicable	Although the Franchise Agreement does not contain any provision permitting you to terminate the Agreement, you may terminate the Franchise Agreement on any grounds available by law.
e.	Termination by Franchisor without cause	Not Applicable	Not Applicable
f.	Termination by Franchisor with cause	Section 17.A.	Each of your obligations under the Franchise Agreement is a material and essential obligation, the breach of which may result in termination.

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
g.	“Cause” defined - curable defaults	Sections 17.D.	<p>If you fail to pay any monies owed to us or our affiliates and do not cure within 5 days after notice; fail to obtain execution of confidentiality and noncompetition covenants required by the Franchise Agreement within 30 days after we request; fail to procure and maintain required insurance within 7 days after notice; use the Marks in an unauthorized manner and fail to cure within 24 hours after notice; fail to obtain our prior written approval or consent as required by the Franchise Agreement and fail to cure such default within 30 days; fail to construct or remodel the Restaurant in accordance with Section 2 of the Franchise Agreement and fails to cure such default within 30 days after notice; if you operate the Restaurant or sell products or services authorized by us for the sale at a location that has not been approved and fails to cure within 5 days after notice fail to cure any other default that is susceptible of cure within 30 days after notice.</p> <p>You should refer to the state-specific addenda to this Disclosure Document and amendments to the Franchise Agreement for more information about state laws that may supersede this provision.</p>
h.	“Cause” defined – noncurable defaults	Sections 17.B. and 17.C.	<p>If you become insolvent, make a general assignment for benefit of creditors, file a petition or have a petition initiated against you under federal bankruptcy or similar state laws, have outstanding judgments against you for over 30 days, if execution is levied against your business or property, you are dissolved, operate or sell our products at an unapproved location, fail to acquire an Approved Location within time required, fail to remodel as required, fail to open Restaurant when required, abandon or lose right to the Restaurant premises, if you or any Controlling Principal are convicted of a felony or other crime that may have an adverse effect on the System or Marks or transfer any interest in violation of the terms of the Franchise Agreement, you or a Controlling Principal fail to comply with the non-competition covenants or disclose confidential information, the Restaurant poses a threat to public health or safety, you maintain false books or records, if you materially breach your representations or warranties or repeatedly commit a material event of default, fail to propose a qualified replacement or successor Operating Principal, Managing Partner, or Market Partner within the prescribed time, If you or a Controlling Principal transfer any rights or obligations under the Franchise Agreement in violation of the terms of the Franchise Agreement; you or Controlling Principal commit 2 or more defaults in a 12-month period or materially default under the terms and conditions of any other agreement between yourself and us.</p>

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
i.	Franchisee’s obligations on termination/non-renewal	Section 18.	You must stop operating the Restaurant and using the Marks and System and completely deidentify the business, pay all amounts due us or our affiliates, return all Manuals and software and other proprietary materials, comply with confidentiality and noncompete requirements, and at our option, sell or assign to us your rights in the equipment and fixtures used in the business. You must also, at our option, sell or assign to us your rights in the Restaurant premises.
j.	Assignment of contract by Franchisor	Section 14.A.	We may transfer or assign the Franchise Agreement to any person or entity without restriction.
k.	“Transfer” by franchisee - defined	Section 14.B.(1)	Includes sale, assignment, conveyance, pledge, mortgage, gift or other encumbrance of any interest in the Franchise Agreement, the Restaurant or you (if you are not a natural person), including any new issuance of stock or other ownership interest in you.
l.	Franchisor approval of transfer by franchisee	Section 14.B.(2)	You and your Controlling Principals must obtain our consent before transferring any interest. We will not unreasonably withhold our consent.
m.	Conditions for Franchisor approval of transfer	Section 14.B.(2)	We may, among other things, require you to pay all amounts due us or our affiliates, not otherwise be in default, sign a general release, pay a transfer fee, and demonstrate the terms of sale do not negatively affect the continuing viability of the business. We may, among other things, require your transferee to meet our criteria, attend training, sign then-current Franchise Agreement, execute an inter-creditor agreement, and upgrade the Restaurant.
n.	Franchisor’s right of first refusal to acquire franchisee’s business	Section 14.D.	Within 45 days after notice or 30 days following the receipt of any additional information that we may request from you, we have the option to purchase the transferred interest on the same terms and conditions as in a <u>bona fide</u> third-party offer.

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
o.	Franchisor's option to purchase franchisee's business	Sections 14.D, 14.I, 18.J. and 18.K.	We may purchase your assets on expiration or termination (described above) and under a right of first refusal if you decide to transfer the franchise (described above). We have the option (but no obligation) to require you and all of your equity owners to transfer your assets or their stock solely for shares of TXRH. We will endeavor to structure the transaction as a tax-free reorganization under Section 368 of the Internal Revenue Code, but only if you and your owners are eligible to participate in a Section 368 reorganization. You and your owners will be required to execute and deliver all agreements, certificates and other documents TXRH requires, including an Agreement and Plan of Reorganization or Exchange in the form attached to this Disclosure Document as Exhibit A to the Franchise Agreement. You and your owners, as applicable, will be entitled to receive the same class of shares that TXRH issued in the public offering. The purchase formula is found in Section 14.I. of the Franchise Agreement. You should review this formula carefully with your financial advisors. Franchisees who purchased franchises before this Offering may be subject to different arrangements.
p.	Death or disability of franchisee	Section 14.E.	If you or a Controlling Principal, are a natural person, on death or permanent disability, distributee must be approved by us, or franchise must be transferred to someone approved by us within 12 months after death or within 6 months after notice of permanent disability.
q.	Non-competition covenants during the term of the franchise	Section 10.D.(1)	You and your Controlling Principals are prohibited from operating or having an interest in a competitive business.
r.	Non-competition covenants after the franchise is terminated or expires	Section 10.D.(2)	You and your Controlling Principals are prohibited from operating or having an interest in a competitive business which is located, or is intended to be located at the approved location within the Assigned Area or within a 30-mile radius of any Texas Roadhouse Restaurant or food service facility in existence or under construction during the 2 year period that begins as of the earlier of (i) the expiration or termination of, or the transfer of all of your interest in, the Franchise Agreement or (ii) the time a Controlling Principal ceases to satisfy the definition of a Controlling Principal, as applicable.
s.	Modification of the agreement	Sections 10.A.(5) and 19.B.	Franchise Agreement may not be modified unless mutually agreed to in writing. You must comply with Manuals as amended.
t.	Integration/merger clause	Section 19.B.	Only the terms of the Franchise Agreement and other related written agreements are binding (subject to state law). Any representations or promises made outside the disclosure document and Franchise Agreement may not be enforceable. We may not disclaim representations made in the disclosure document.

	<b>Provision</b>	<b>Section in Franchise Agreement</b>	<b>Summary</b>
u.	Dispute resolution by arbitration or mediation	Sections 19.G., H., and I.	Except for actions brought by us for monies owed, injunctive or extraordinary relief, or actions involving real estate, all disputes must be mediated at our headquarters in Louisville, Kentucky.
v.	Choice of forum	Section 19.H.	<p>The venue for all proceedings related to or arising out of the Franchise Agreement is Jefferson County, Kentucky, except for actions involving monies owed, injunctive or extraordinary relief, or actions involving real estate that we may bring elsewhere.</p> <p>You should refer to the state-specific addenda to this Disclosure Document and amendments to the Franchise Agreement for more information about state laws that may supersede this provision.</p> <p>In addition to the provisions noted in this chart, the Franchise Agreement contains a limitation on the time within which a claim may be filed. See Section 19.G. We recommend that you carefully review this provision and the entire contract, with a lawyer.</p>
w.	Choice of law	Section 19.H.	<p>The Franchise Agreement is to be interpreted and construed under Kentucky law (except for Kentucky choice of law rules).</p> <p>You should refer to the state-specific addenda to this Disclosure Document and amendments to the Franchise Agreement for more information about state laws that may supersede this provision.</p>

**You should read these provisions in the sample Agreement and Plan of Reorganization attached to this Disclosure Document.**

	<b>Provision</b>	<b>Section in Agreement and Plan of Reorganization (“Plan Agreement”)</b>	<b>Summary</b>
a.	Length of the franchise term	Not Applicable	Not Applicable
b.	Renewal or extension of the term	Not Applicable	Not Applicable
c.	Requirements for franchisee to renew or extend	Not Applicable	Not Applicable
d.	Termination by franchisee	Sections 10.1(c), (e) and (f)	If we materially breach a warranty, representation or covenant, if conditions to closing are not met, or a court prohibits the sale
e.	Termination by Franchisor without cause	Section 10.1(a)	Upon written notice any time before Closing
f.	Termination by Franchisor with “cause”	Sections 10.1(b), (d) and (f)	If you materially breach a warranty, representation or covenant, if conditions to closing are not met, or a court prohibits the sale
g.	“Cause” defined - curable defaults	Not Applicable	Not Applicable
h.	“Cause” defined – noncurable defaults	Not Applicable	Not Applicable

	<b>Provision</b>	<b>Section in Agreement and Plan of Reorganization (“Plan Agreement”)</b>	<b>Summary</b>
i.	Franchisee’s obligations on termination/non-renewal	Section 10.2	Return all documents, work papers and other material, honor surviving covenants
j.	Assignment of contract by Franchisor	Section 12.4	No assignment or delegation of rights without the consent of the other parties
k.	“Transfer” by franchisee - defined	Not Applicable	Not Applicable
l.	Franchisor approval of transfer by franchisee	Section 12.4	No assignment or delegation of rights without the consent of the other parties
m.	Conditions for Franchisor approval of transfer	Not Applicable	Not Applicable
n.	Franchisor’s right of first refusal to acquire franchisee’s business	Not Applicable	Not Applicable
o.	Franchisor’s option to purchase franchisee’s business	Plan of Reorganization Agreement, Exhibit A to the Franchise Agreement	We have the option (but no obligation) to require you and all of your equity owners to transfer your assets or their stock solely for shares of TXRH. We will endeavor to structure the transaction as a tax-free reorganization under Section 368 of the Internal Revenue Code, but only if you and your owners are eligible to participate in a Section 368 reorganization. You and your owners will be required to execute and deliver all agreements, certificates and other documents TXRH requires, including an Agreement and Plan of Reorganization or Exchange. You and your owners, as applicable, will be entitled to receive the same class of shares that TXRH issued in the public offering. The purchase formula is found in Section XIV.I. of the Franchise Agreement.
p.	Death or disability of franchisee	Not Applicable	Not Applicable
q.	Non-competition covenants during the term of the franchise	Section 6.18	Franchisee must honor all non-competition covenants in the franchise agreement.
r.	Non-competition covenants after the franchise is terminated or expires	Section 6.18	Franchisee must honor all non-competition covenants in the franchise agreement.
s.	Modification of the agreement	Section 12.1	The Plan Agreement may not be modified unless mutually agreed to in writing.
t.	Integration/merger clause	Section 12.1	The Plan Agreement is binding (subject to state law). Any representations or promises made outside the disclosure document and the Plan Agreement may not be enforceable. We may not disclaim representations made in the disclosure document.

	<b>Provision</b>	<b>Section in Agreement and Plan of Reorganization (“Plan Agreement”)</b>	<b>Summary</b>
u.	Dispute resolution by arbitration or mediation	Section 12.14	Commercial Arbitration Rules of the American Arbitration Association in Louisville, KY, before one arbitrator for all matters relating to the Plan of Reorganization except enforcement of described covenants by injunctive relief. Arbitrator may only award direct compensatory damages actually incurred and proven.
v.	Choice of forum	Section 19.H.	State or federal court sitting in Jefferson County, Kentucky
w.	Choice of law	Section 12.2	Commonwealth of Kentucky

A provision in the Franchise Agreement that terminates the agreement upon your bankruptcy may not be enforceable under Title 11, United States Code Section 101 et sec.

**APPLICABLE STATE LAW MAY REQUIRE ADDITIONAL DISCLOSURES RELATED TO THE INFORMATION IN THIS DISCLOSURE DOCUMENT. THESE ADDITIONAL DISCLOSURES, IF ANY, APPEAR IN AN ADDENDUM.**

**ITEM 18**

**PUBLIC FIGURES**

We do not use any public figure to promote the 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 that you are considering buying; or (2) a franchisor supplements the information provided in 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 Texas Roadhouse, Legal Department, at (502) 426-9984 or [legal@texasroadhouse.com](mailto:legal@texasroadhouse.com), the Federal Trade Commission, and the appropriate state regulatory agencies.

**ITEM 20**

**OUTLETS AND FRANCHISE INFORMATION**

**TABLE NO. 1  
SYSTEMWIDE OUTLET SUMMARY  
FOR YEARS ENDED**

**December 29, 2020, December 28, 2021 and December 27, 2022<sup>(1)</sup>**

Column 1 Outlet Type	Column 2 Year	Column 3 Outlets at the Start of the Year	Column 4 Outlets at the End of the Year	Column 5 Net Change
Franchised	2020	69	68	1
	2021	68	69	+1
	2022	69	62	-7
Company- Owned	2020	484	504	20
	2021	504	526	+22
	2022	526	552	+26
Total Outlets	2020	555	573	+18
	2021	573	596	+23
	2022	596	614	+18

**Note:**

(1) We began to offer franchises in 1995. All numbers are as of the end of our fiscal years. The numbers include domestic locations only. (See Item 1)

**TABLE NO. 2  
TRANSFERS OF OUTLETS FROM FRANCHISEES TO NEW OWNERS  
(OTHER THAN THE FRANCHISOR)  
FOR YEARS ENDED  
DECEMBER 29, 2020, DECEMBER 28, 2021, and DECEMBER 27, 2022<sup>(1)</sup>**

Column 1 State	Column 2 Year	Column 3 Number of Transfers
Totals	2020	0
	2021	0
	2022	0



**Note:**

(1) Numbers are as of fiscal year end for the referenced years, as applicable

**TABLE NO. 3  
STATUS OF FRANCHISED OUTLETS  
FOR YEARS ENDED  
DECEMBER 29, 2020, DECEMBER 28, 2021, and DECEMBER 27, 2022 <sup>(1)</sup>**

<b>Col. 1 State</b>	<b>Col. 2 Year</b>	<b>Col. 3 Outlets at Start of Year</b>	<b>Col. 4 Outlets Opened</b>	<b>Col. 5 Termina- tions</b>	<b>Col. 6 Non- Renewals</b>	<b>Col. 7 Reacquire d by Franchisor</b>	<b>Col. 8 Ceased Operations - Other Reasons</b>	<b>Col. 9 Outlets at End of the Year</b>
California	2020	8	1	0	0	0	0	9
	2021	9	1	0	0	0	0	10
	2022	10	0	0	0	0	0	10
Colorado	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
Delaware	2020	2	0	0	0	0	0	2
	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
Florida	2020	0	0	0	0	0	0	0
	2021	0	0	0	0	0	0	0
	2022	0	0	0	0	0	0	0
Georgia	2020	4	0	0	0	1	0	3
	2021	3	0	0	0	0	0	3
	2022	3	0	0	0	0	0	3
Indiana	2020	8	0	0	0	0	0	8
	2021	8	0	0	0	0	0	8
	2022	8	0	0	0	0	0	8
Kansas	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
Kentucky	2020	2	0	0	0	0	0	2
	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
Louisiana	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
Maryland	2020	6	0	0	0	0	0	6

<b>Col. 1</b>	<b>Col. 2</b>	<b>Col. 3</b>	<b>Col. 4</b>	<b>Col. 5</b>	<b>Col. 6</b>	<b>Col. 7</b>	<b>Col. 8</b>	<b>Col. 9</b>
<b>State</b>	<b>Year</b>	<b>Outlets at Start of Year</b>	<b>Outlets Opened</b>	<b>Terminations</b>	<b>Non-Renewals</b>	<b>Reacquired by Franchisor</b>	<b>Ceased Operations - Other Reasons</b>	<b>Outlets at End of the Year</b>
	2021	6	0	0	0	0	0	6
	2022	6	0	0	0	0	0	6
Massachusetts	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
Michigan	2020	3	0	0	0	0	0	3
	2021	3	0	0	0	0	0	3
	2022	3	0	0	0	0	0	3
Montana	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
Nebraska	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	1	0	0
North Dakota	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
Ohio	2020	2	0	0	0	0	0	2
	2021	2	0	0	0	0	0	2
	2022	2	0	0	0	0	0	2
Pennsylvania	2020	6	0	0	0	0	0	6
	2021	6	0	0	0	0	0	6
	2022	6	0	0	0	0	0	6
South Carolina	2020	6	0	0	0	0	0	6
	2021	6	0	0	0	0	0	6
	2022	6	0	0	0	6	0	0
Tennessee	2020	2	0	0	0	1	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
Texas	2020	5	0	0	0	0	0	5
	2021	5	0	0	0	0	0	5
	2022	5	0	0	0	0	0	5
Utah	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1

Col. 1 State	Col. 2 Year	Col. 3 Outlets at Start of Year	Col. 4 Outlets Opened	Col. 5 Termina- tions	Col. 6 Non- Renewals	Col. 7 Reacquire d by Franchisor	Col. 8 Ceased Operations - Other Reasons	Col. 9 Outlets at End of the Year
	2022	1	0	0	0	0	0	1
Washington	2020	1	0	0	0	0	0	1
	2021	1	0	0	0	0	0	1
	2022	1	0	0	0	0	0	1
West Virginia	2020	3	0	0	0	0	0	3
	2021	3	0	0	0	0	0	3
	2022	3	0	0	0	0	0	3
Wisconsin	2020	3	0	0	0	0	0	3
	2021	3	0	0	0	0	0	3
	2022	3	0	0	0	0	0	3
<b>Totals</b>	2020	69	1	0	0	2	0	68
	2021	68	1	0	0	0	0	69
	2022	69	0	0	0	8	0	62

**Note:**

(1) Numbers are as of fiscal year end for the referenced years, as applicable.

**TABLE NO. 4  
STATUS OF COMPANY OWNED OUTLETS  
FOR YEARS ENDED  
DECEMBER 29, 2020, DECEMBER 28, 2021 and DECEMBER 27, 2022**

Col. 1 State	Col. 2 Year	Col. 3 Outlets at Start of the Year	Col. 4 Outlets Opened	Col. 5 Outlets Reacquired From Franchisee	Col. 6 Outlets Closed	Col. 7 Outlets Sold to Franchisee	Col. 8 Outlets at End of the Year
Alabama	2020	8	0	0	0	0	8
	2021	8	1	0	0	0	9
	2022	9	0	0	0	0	9
Alaska	2020	2	0	0	0	0	2
	2021	2	0	0	0	0	2
	2022	2	0	0	0	0	2
Arizona	2020	17	1	0	0	0	18
	2021	18	1	0	0	0	19
	2022	19	0	0	0	0	19
Arkansas	2020	6	0	0	0	0	6
	2021	6	2	0	0	0	8

Col. 1 State	Col. 2 Year	Col. 3 Outlets at Start of the Year	Col. 4 Outlets Opened	Col. 5 Outlets Reacquired From Franchisee	Col. 6 Outlets Closed	Col. 7 Outlets Sold to Franchisee	Col. 8 Outlets at End of the Year
	2022	8	0	0	0	0	8
California	2020	4	0	0	0	0	4
	2021	4	0	0	0	0	4
	2022	4	2	0	0	0	6
Colorado	2020	14	1	0	0	0	15
	2021	14	0	0	0	0	15
	2022	15	0	0	0	0	15
Connecticut	2020	5	0	0	0	0	5
	2021	5	0	0	0	0	5
	2022	5	0	0	0	0	5
Delaware	2020	2	0	0	0	0	2
	2021	2	1	0	0	0	3
	2022	3	0	0	0	0	3
Florida	2020	38	2	0	0	0	40
	2021	40	0	0	0	0	40
	2022	40	1	0	0	0	41
Georgia	2020	10	1	1	0	0	12
	2021	12	2	0	0	0	14
	2022	14	0	1	0	0	15
Idaho	2020	5	0	0	0	0	5
	2021	5	1	0	0	0	6
	2022	6	0	0	0	0	6
Illinois	2020	16	1	0	0	0	17
	2021	17	2	0	0	0	19
	2022	19	0	0	0	0	19
Indiana	2020	16	0	0	0	0	16
	2021	16	0	0	0	0	17
	2022	17	0	0	0	0	17
Iowa	2020	9	1	0	0	0	10
	2021	10	0	0	0	0	10
	2022	10	1	0	0	0	11
Kansas	2020	5	0	0	0	0	5
	2021	5	0	0	0	0	5
	2022	5	0	0	0	0	5
Kentucky	2020	13	1	0	0	0	14
	2021	14	2	0	0	0	16
	2022	16	0	0	0	0	16
Louisiana	2020	10	0	0	0	0	10
	2021	10	0	0	0	0	10
	2022	10	0	0	0	0	10
Maine	2020	3	0	0	0	0	3
	2021	3	0	0	0	0	3
	2022	3	0	0	0	0	3
Maryland	2020	7	0	0	0	0	7
	2021	7	0	0	0	0	7

Col. 1 State	Col. 2 Year	Col. 3 Outlets at Start of the Year	Col. 4 Outlets Opened	Col. 5 Outlets Reacquired From Franchisee	Col. 6 Outlets Closed	Col. 7 Outlets Sold to Franchisee	Col. 8 Outlets at End of the Year
	2022	7	0	0	0	0	7
Massachusetts	2020	10	0	0	0	0	10
	2021	10	0	0	0	0	10
	2022	10	0	0	0	0	10
Michigan	2020	13	1	0	0	0	14
	2021	14	1	0	0	0	15
	2022	15	1	0	0	0	16
Minnesota	2020	4	1	0	0	0	5
	2021	5	1	0	0	0	6
	2022	6	1	0	0	0	7
Mississippi	2020	3	0	0	0	0	3
	2021	3	0	0	0	0	3
	2022	3	0	0	0	0	3
Missouri	2020	17	0	0	0	0	17
	2021	17	0	0	0	0	17
	2022	17	1	0	0	0	18
Nebraska	2020	3	0	0	0	0	3
	2021	3	0	0	0	0	3
	2022	3	0	1	0	0	4
Nevada	2020	2	0	0	0	0	2
	2021	2	1	0	0	0	3
	2022	3	1	0	0	0	4
New Hampshire	2020	3	0	0	0	0	3
	2021	3	0	0	0	0	3
	2022	3	0	0	0	0	3
New Jersey	2020	8	1	0	0	0	9
	2021	9	0	0	0	0	9
	2022	9	0	0	0	0	9
New Mexico	2020	4	1	0	0	0	5
	2021	5	0	0	0	0	5
	2022	5	1	0	0	0	6
New York	2020	20	1	0	0	0	21
	2021	21	0	0	0	0	21
	2022	21	0	0	0	0	21
North Carolina	2020	18	0	0	0	0	18
	2021	18	1	0	0	0	19
	2022	19	0	0	0	0	19
North Dakota	2020	2	0	0	0	0	2
	2021	2	0	0	0	0	2
	2022	2	0	0	0	0	2
Ohio	2020	30	1	0	0	0	31
	2021	31	2	0	0	0	33
	2022	33	0	0	0	0	33
Oklahoma	2020	7	0	0	0	0	7
	2021	7	0	0	0	0	7
	2022	7	0	0	0	0	7

Col. 1 State	Col. 2 Year	Col. 3 Outlets at Start of the Year	Col. 4 Outlets Opened	Col. 5 Outlets Reacquired From Franchisee	Col. 6 Outlets Closed	Col. 7 Outlets Sold to Franchisee	Col. 8 Outlets at End of the Year
Oregon	2020	2	0	0	0	0	2
	2021	2	0	0	0	0	2
	2022	2	0	0	0	0	2
Pennsylvania	2020	25	0	0	0	0	25
	2021	25	0	0	0	0	25
	2022	25	1	0	0	0	26
Rhode Island	2020	3	0	0	0	0	3
	2021	3	0	0	0	0	3
	2022	3	0	0	0	0	3
South Carolina	2020	3	0	0	0	0	3
	2021	3	0	0	0	0	3
	2022	3	0	6	0	0	9
South Dakota	2020	2	0	0	0	0	2
	2021	2	0	0	0	0	2
	2022	2	0	0	0	0	2
Tennessee	2020	14	0	1	0	0	15
	2021	15	1	0	0	0	16
	2022	16	1	0	0	0	17
Texas	2020	57	1	0	0	0	58
	2021	58	2	0	0	0	60
	2022	60	3	0	0	0	63
Utah	2020	9	0	0	0	0	9
	2021	9	0	0	0	0	9
	2022	9	1	0	0	0	10
Vermont	2020	1	0	0	0	0	1
	2021	1	0	0	0	0	1
	2022	1	0	0	0	0	1
Virginia	2020	16	2	0	0	0	18
	2021	18	1	0	0	0	19
	2022	19	1	0	0	0	20
Washington	2020	2	0	0	0	0	2
	2021	2	0	0	0	0	2
	2022	2	0	0	0	0	2
West Virginia	2020	2	0	0	0	0	3
	2021	3	0	0	0	0	3
	2022	3	1	0	0	0	4
Wisconsin	2020	10	0	0	0	0	10
	2021	10	0	0	0	0	10
	2022	10	1	0	0	0	11
Wyoming	2020	2	0	0	0	0	2
	2021	2	0	0	0	0	2
	2022	2	0	0	0	0	2
Totals	2020	484	18	2	0	0	504
	2021	504	22	0	0	0	526
	2022	526	18	8	0	0	552

**Notes:**

- (1) We began to offer franchises in 1995. All numbers are as of the end of our fiscal years. The numbers include domestic locations only. (See Item 1)

**TABLE NO. 5  
PROJECTED OPENINGS AS OF DECEMBER 27, 2022<sup>(1)</sup>**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>State</b>	<b>Franchise Agreements Signed But Outlet Not Opened</b>	<b>Projected New Franchised Outlet In The Next Fiscal Year</b>	<b>Projected New Company-Owned Outlet In the Next Fiscal Year</b>
Alabama	0	0	1
Arkansas	0	0	1
California	0	1	2
Colorado	0	0	0
Delaware	0	0	0
Florida	0	0	2
Georgia	0	0	0
Idaho	0	0	0
Indiana	0	0	1
Illinois	0	0	0
Iowa	0	0	0
Kansas	0	0	1
Kentucky	0	0	0
Michigan	0	0	3
Missouri	0	0	0
Minnesota	0	0	0
Montana	0	0	2
Nevada	0	0	0
New Hampshire	0	0	1
New Jersey	0	0	0
New Mexico	0	0	1
New York	0	0	1
North Carolina	0	0	0
Ohio	0	0	1
Oklahoma	0	0	2
Pennsylvania	0	0	1

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>State</b>	<b>Franchise Agreements Signed But Outlet Not Opened</b>	<b>Projected New Franchised Outlet In The Next Fiscal Year</b>	<b>Projected New Company-Owned Outlet In the Next Fiscal Year</b>
South Carolina	0	0	0
Tennessee	0	0	1
Texas	0	0	5
Virginia	0	0	1
Wisconsin	0	1	0
Washington	0	0	0
Totals	0	2	27

**Notes:**

(1) All Company-owned Restaurants to be established in 2022 will be owned or controlled by Holdings.

**List of Current Franchisees**

A list of the names, addresses and telephone numbers of our current franchisees and their outlets as of December 27, 2022, is attached as Exhibit D to this Disclosure Document

**List of Former Franchisees**

Exhibit D also lists the name, city and state, and current business telephone number, or if unknown, the last known home telephone number of every franchisee who had a Restaurant franchise terminated, canceled, not renewed or involuntarily ceased to do business under the franchise agreement during the most recently completed fiscal year or has not communicated with us within 10 weeks before the date of this Disclosure Document.

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

**Purchase of Previously Owned Franchise**

If you are purchasing a previously owned Restaurant, we will provide you additional information on the previously owned Restaurant in an addendum to this Disclosure Document.

**Confidentiality Clauses**

During the last 3 fiscal years, we have not signed any agreements with franchisees that contain confidentiality clauses that would restrict a franchisee’s ability to speak openly about their experience.

**Trademark- Specific Franchisee Organizations**

We are not currently aware if any trademark-specific franchisee organizations associated with the franchise system which we have created, sponsored or endorsed, or any independent franchisee organizations that have asked to be included in this Disclosure Document.



## **ITEM 21**

### **FINANCIAL STATEMENTS**

The consolidated financial statements of our parent, Texas Roadhouse, Inc., listed below appear in Exhibit A to the Disclosure Document. Our financial statements are no longer separately audited, but comprise an element of our parent's consolidated financial statements. Our parent has unconditionally guaranteed our obligations to franchisees who acquire a franchise after January 1, 2005. A copy of the Guarantee of Performance follows the consolidated financial statements in Exhibit A to this Disclosure Document.

#### **Audited Statements**

Report of Independent Registered Public Accounting Firm

Consolidated Balance Sheets as of December 27, 2022, and December 28, 2021

Consolidated Statements of Income and Comprehensive Income for the Years Ended December 27, 2022, December 28, 2021, and December 29, 2020

Consolidated Statements of Stockholders' Equity for the Years Ended December 27, 2022, December 28, 2021, and December 29, 2020

Consolidated Statements of Cash Flows for the Years Ended December 27, 2022, December 28, 2021, and December 29, 2020

Notes to Consolidated Financial Statements

## **ITEM 22**

### **CONTRACTS**

Attached as Exhibits to this Disclosure Document are the following contracts and their attachments:

1. Franchise Agreement, State Amendments and Agreement and Plan of Reorganization (Exhibit B)
2. Confidentiality Agreement (Exhibit C)
3. Current Sample Form of General Release (Exhibit G)

### State Effective Dates

The following states have franchise laws that require that the Franchise Disclosure Document be registered or filed with the state, or be exempt from the registration: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington and Wisconsin.

This document is effective and may be used in the following states, where the document is filed, registered or exempt from the registration, as the Effective Date stated below:

<u>State</u>	<u>Effective Date</u>
California	
Indiana	
Michigan	
North Dakota	
Washington	
Wisconsin	

Other states may require registration, filing or exemption of a franchise under the laws, such as those that regulate the offer and sale of business opportunities or seller-assisted marketing plans.

## **ITEM 23**

### **RECEIPTS**

Two copies of a Receipt for this Disclosure Document are attached as the last two pages of this booklet. Please sign, date and return one copy to us; retain the other copy for your files. Please act promptly; we cannot communicate with you any further until we receive your signed Receipt.

**STATE APPENDIX TO THE DISCLOSURE DOCUMENT**

## APPENDIX TO DISCLOSURE DOCUMENT

We must provide you the following information about certain state laws, and how they may affect your franchise contracts. By providing you this information, we are not agreeing that the laws apply to your franchise contract or waiving our right to challenge the validity or enforceability of the state law in the future. We are giving you this information solely for purposes of satisfying our disclosure obligations.

### CALIFORNIA

1. The California Department of Business Oversight requires that certain provisions contained in franchise documents be amended to be consistent with California law, including the California Franchise Investment Law, CAL. CORP. CODE Section 31000 et seq., and the California Franchise Relations Act, CAL. BUS. & PROF. CODE Section 20000 et seq. To the extent that the Disclosure Document/and or Franchise Agreement contain provisions that are inconsistent with the following, such provisions are hereby amended:

A. Item 3 of the Disclosure Document is supplemented by the following language:

Neither we nor any person or franchise broker in Item 2 of the Franchise Disclosure Document is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities Exchange Act of 1934, 15 U.S.C.A.78a et seq., suspending or expelling such persons from membership in such association or exchange.

B. Item 17 of the Franchise Disclosure Document is supplemented by the following language:

- a. California Business and Professions Code Sections 20000 through 20043 provide rights to the franchisee concerning termination or non-renewal of a franchise. If the franchise agreement contains a provision that is inconsistent with the law, the law will control.
- b. The franchise agreement provides for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. Sec. 101 et seq.).
- c. The franchise agreement contains a covenant not to compete which extends beyond the termination of the franchise. This provision may not be enforceable under California law.
- d. The franchise agreement requires application of the laws of Kentucky. This provision may not be enforceable under California law.
- e. The franchise agreement contains a liquidated damages clause. Under California Civil Code Section 1671, certain liquidated damages clauses are unenforceable.

2. 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).

3. THE CALIFORNIA FRANCHISE INVESTMENT LAW REQUIRES THAT A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE BE DELIVERED TOGETHER WITH A COPY OF THE DISCLOSURE DOCUMENT.

4. You must sign a general release if you renew or transfer your franchise. California Corporations Code Section 31512 voids a waiver of your rights under the Franchise Investment Law (California Corporations Code Sections 31000 through 31516). Business and Professions Code Section 20010 voids a waiver of your rights under the Franchise Relations Act (Business and Professions Code Sections 20000 through 20043).

5. Corporations Code 31512 provides that: “Any conditions, stipulation or provision purporting to bind any person acquiring a franchise to waive compliance with any provision of this law or any rule or order hereunder is void.” The franchise agreement requires a shortened status of limitations period. Pursuant to Corporations Code Section 31512, this provision is void, to the extent that it is inconsistent with the provisions of Corporations Code Sections 31303 and 31304.

6. SECTION 31125 OF THE FRANCHISE INVESTMENT LAW REQUIRES US TO GIVE TO YOU A DISCLOSURE DOCUMENT APPROVED BY THE COMMISSIONER OF CORPORATIONS BEFORE WE ASK YOU TO CONSIDER A MATERIAL MODIFICATION OF YOUR FRANCHISE AGREEMENT.

### **ILLINOIS**

1. The Cover Page, Item 17.v., and Item 17.w. (Franchise Agreement chart) are supplemented by the following:

“If the Franchise Agreement requires (i) litigation to be conducted in a forum other than the State of Illinois, the requirement is void with respect to claims under the Illinois Franchise Disclosure Act (“Act”) and (ii) that it be governed by a state’s law, other than the State of Illinois, to the extent that such law conflicts with the Act, Illinois law will govern.”

### **MARYLAND**

1. (a) The Summary column for Item 17.v., “Choice of Forum” (Franchise Agreement chart) is amended as follows:

“A franchisee may bring a lawsuit in Maryland for claims arising under the Maryland Franchise Registration and Disclosure Law. Except for any rights a franchisee has under the Maryland Franchise Registration and Disclosure Law to bring suit in Maryland for claims arising under the Law, mediation of disputes which are subject to mediation will be held at our headquarters in Louisville, Kentucky. Except as otherwise required by the Maryland Franchise Registration and Disclosure Law, venue for all proceedings arising under the Franchise Agreement is the Jefferson County, unless otherwise brought by us.”

(b) Item 17.c., “Requirements for you to renew or extend” and Item 17.m., “Conditions for Franchisor approval of transfer” (Franchise Agreement chart) are amended by the addition of the following:

“The Code of Maryland Regulations COMAR 02.02.08.16L., states that a 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. This may affect the enforceability of certain provisions in the Franchise Agreement relating to renewal, sale, assignment or transfer of the Franchise Agreement.”

(c) Item 17 is amended to add the following note at the end of that Item:

“Any claims that Franchisee may have under the Maryland Franchise Registration and Disclosure Law must be brought within 3 years after the grant of the franchise.”

### **NEW YORK**

1. Item 3, “Litigation” is hereby amended by deleting the next to last paragraph in that Item and replacing it with the following language:

“Other than this one action:

(a) Neither we, any predecessor, any person identified in Item 2 above, nor any affiliate offering franchises under our principal trademark has pending any administrative, criminal or material civil action (or a significant number of civil actions irrespective of materiality) alleging a violation of any franchise, antitrust or securities law, fraud, embezzlement, fraudulent conversion, misappropriation of property, unfair or deceptive practices, or comparable allegations.

(b) Neither we, any predecessor, any person identified in Item 2 above, nor any affiliate offering franchises under our principal trademark has been convicted of a felony or pleaded nolo contendere to a felony charge or, within the ten-year period immediately preceding the date of this disclosure document, has been convicted of a misdemeanor or pleaded nolo contendere to a misdemeanor charge or been held liable in a civil action by final judgment or been the subject of a material complaint or other legal proceeding if such misdemeanor conviction or charge or civil action, complaint or other legal proceeding involved a violation of any franchise, anti-fraud or securities law, fraud, embezzlement, fraudulent conversion, misappropriation of property, unfair or deceptive practices, misappropriation of property or comparable allegations.

(c) Neither we, any predecessor any person identified in Item 2 above, nor any affiliate offering franchises under our principal trademark is subject to any currently effective injunctive or restrictive order or decree relating to franchises or under any Federal, State or Canadian franchise, securities, antitrust, trade regulation or trade practice law as a result of a concluded or pending action or proceeding brought by a public agency, is subject to any currently effective order of any national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, suspending or expelling such person from membership in such association or exchange; or is subject to a currently effective injunctive or restrictive order relating to any other business activity as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license as a real estate broker or sales agent.”

2. Item 4, “Bankruptcy” is hereby deleted in its entirety and the following language substituted in lieu thereof:

“Neither we, nor any affiliate or predecessor or current officer or general partner have during the 10 year period immediately before the date of this Disclosure Document (a) filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code; (b) obtained a discharge of its debts under the Bankruptcy Code; or (c) was a principal officer of a company or a general partner in a partnership that either filed as a debtor (or had filed against it) a petition to start an action under the U.S. Bankruptcy Code or that obtained a discharge of its debts under the U.S. Bankruptcy Code during or within 1 year after the officer or general partner of Texas Roadhouse Development Corporation held this position with the company or partnership.”

3. Item 17, “Renewal, Termination, Transfer and Dispute Resolution” is amended in the franchise agreement table as follows:

(a) By adding the following in the “Summary” column opposite category d., “Termination by you”:

“To the extent required by the New York General Business Law, you may terminate the Agreement on any grounds available by law.”

(b) By adding the following in the “Summary” column opposite category w., “Choice of law”:

“The foregoing choice of law should not be considered a waiver of any right conferred upon you by the General Business Law of the State of New York, Article 33.”

### **VIRGINIA**

1. In recognition of the restrictions contained in Section 13.1-564 of the Virginia Retail Franchising Act, Item 17.h. of the Franchise Disclosure Document for Texas Roadhouse Development Corporation is supplemented by the following:

“Under 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.”



**EXHIBIT A**

**TEXAS ROADHOUSE, INC., AND SUBSIDIARIES  
CONSOLIDATED FINANCIAL STATEMENTS**



KPMG LLP  
Suite 2400  
400 West Market Street  
Louisville, KY 40202

The Board of Directors  
Texas Roadhouse, Inc.:

### **Independent Auditors' Acknowledgement**

We agree to the inclusion in the Franchise Disclosure Document dated March 31, 2023 issued by Texas Roadhouse Development Corporation (the Franchisor) of our report, dated February 24, 2023, relating to the consolidated financial statements of Texas Roadhouse, Inc. and subsidiaries as of December 27, 2022 and December 28, 2021, and for each of the years in the three-year period ended December 27, 2022.

**KPMG LLP**

Louisville, Kentucky  
March 31, 2023

## Report of Independent Registered Public Accounting Firm

To the Stockholders and Board of Directors  
Texas Roadhouse, Inc.:

### *Opinion on the Consolidated Financial Statements*

We have audited the accompanying consolidated balance sheets of Texas Roadhouse, Inc. and subsidiaries (the Company) as of December 27, 2022 and December 28, 2021, the related consolidated statements of income and comprehensive income, stockholders' equity, and cash flows for each of the years in the three-year period ended December 27, 2022, and the related notes (collectively, the consolidated financial statements). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 27, 2022 and December 28, 2021, and the results of its operations and its cash flows for each of the years in the three-year period ended December 27, 2022, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 27, 2022, based on criteria established in *Internal Control – Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission, and our report dated February 24, 2023 expressed an unqualified opinion on the effectiveness of the Company's internal control over financial reporting.

### *Basis for Opinion*

These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

### *Critical Audit Matter*

The critical audit matter communicated below is a matter arising from the current period audit of the consolidated financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the consolidated financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of a critical audit matter does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

#### *Potential indicators of impairment of long-lived assets*

As discussed in Notes 2 and 17 to the consolidated financial statements, the Company assesses long-lived assets, primarily related to restaurants held and used in the business, including property and equipment and right-of-use assets, for potential impairment whenever events or changes in circumstances indicate that the carrying amount of a restaurant, or asset group, may not be recoverable. Trailing 12-month cash flows under predetermined amounts at the individual restaurant level are the Company's primary indicator that the carrying amount of a restaurant may not be recoverable. Property and equipment, net of accumulated depreciation, and the operating lease right-of-use asset, net as of December 27, 2022 were \$1,270.3 million and \$630.3 million, respectively.

We identified the assessment of the Company's determination of potential indicators of impairment of long-lived assets as a critical audit matter. Subjective auditor judgement was required to evaluate the events or circumstances indicating the carrying amount of an asset group may not be recoverable, including the determination of the cash flow thresholds and the utilization of the trailing 12-month cash flows to identify a potential impairment trigger.

The following are the primary procedures we performed to address this critical audit matter. We evaluated the design and tested the operating effectiveness of certain internal controls over the Company's long-lived asset impairment process, including controls relating to determination and identification of potential indicators of impairment. We evaluated the Company's methodology of using trailing 12-month cash flow results under predetermined thresholds at the individual restaurant level as a potential indicator of impairment. Specifically, we evaluated the Company's assessment of the factors considered, including the cash flows at the individual restaurant level and the cash flow thresholds used in the Company's analysis. We tested that those restaurants with trailing 12-month cash flows were evaluated for potential impairment triggers and we compared the trailing 12-month cash flows to historical financial data. We also assessed other events and circumstances that could have been indicative of a potential impairment trigger by reviewing management's development reports and related meeting minutes and the board of directors meeting minutes.

/s/ KPMG LLP

We have served as the Company's auditor since 1998.

Louisville, Kentucky  
February 24, 2023

**Texas Roadhouse, Inc. and Subsidiaries**

**Consolidated Balance Sheets**

(in thousands, except share and per share data)

	<u>December 27, 2022</u>	<u>December 28, 2021</u>
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 173,861	\$ 335,645
Receivables, net of allowance for doubtful accounts of \$50 at December 27, 2022 and \$17 at December 28, 2021	150,264	161,358
Inventories, net	38,015	31,595
Prepaid income taxes	5,097	10,701
Prepaid expenses and other current assets	<u>29,604</u>	<u>24,226</u>
Total current assets	<u>396,841</u>	<u>563,525</u>
Property and equipment, net of accumulated depreciation of \$968,036 at December 27, 2022 and \$869,375 at December 28, 2021	1,270,349	1,162,441
Operating lease right-of-use assets, net	630,258	578,413
Goodwill	148,732	127,001
Intangible assets, net of accumulated amortization of \$17,905 at December 27, 2022 and \$15,092 at December 28, 2021	5,607	1,520
Other assets	<u>73,878</u>	<u>79,052</u>
Total assets	<u>\$ 2,525,665</u>	<u>\$ 2,511,952</u>
<b>Liabilities and Stockholders' Equity</b>		
Current liabilities:		
Current portion of operating lease liabilities	\$ 25,490	\$ 21,952
Accounts payable	105,560	95,234
Deferred revenue-gift cards	335,403	300,657
Accrued wages and payroll taxes	54,544	64,716
Income taxes payable	434	85
Accrued taxes and licenses	35,264	33,375
Other accrued liabilities	<u>95,315</u>	<u>86,125</u>
Total current liabilities	<u>652,010</u>	<u>602,144</u>
Operating lease liabilities, net of current portion	677,874	622,892
Long-term debt	50,000	100,000
Restricted stock and other deposits	7,979	8,027
Deferred tax liabilities, net	20,979	11,734
Other liabilities	<u>89,161</u>	<u>93,671</u>
Total liabilities	1,498,003	1,438,468
Texas Roadhouse, Inc. and subsidiaries stockholders' equity:		
Preferred stock (\$0.001 par value, 1,000,000 shares authorized; no shares issued or outstanding)	—	—
Common stock (\$0.001 par value, 100,000,000 shares authorized, 66,973,311 and 69,382,418 shares issued and outstanding at December 27, 2022 and December 28, 2021, respectively)	67	69
Additional paid-in-capital	13,139	114,504
Retained earnings	<u>999,432</u>	<u>943,551</u>
Total Texas Roadhouse, Inc. and subsidiaries stockholders' equity	1,012,638	1,058,124
Noncontrolling interests	<u>15,024</u>	<u>15,360</u>
Total equity	<u>1,027,662</u>	<u>1,073,484</u>
Total liabilities and equity	<u>\$ 2,525,665</u>	<u>\$ 2,511,952</u>

See accompanying Notes to Consolidated Financial Statements.

**Texas Roadhouse, Inc. and Subsidiaries**

**Consolidated Statements of Income and Comprehensive Income**

(in thousands, except per share data)

	Fiscal Year Ended		
	December 27, 2022	December 28, 2021	December 29, 2020
Revenue:			
Restaurant and other sales	\$ 3,988,791	\$ 3,439,176	\$ 2,380,177
Franchise royalties and fees	26,128	24,770	17,946
Total revenue	4,014,919	3,463,946	2,398,123
Costs and expenses:			
Restaurant operating costs (excluding depreciation and amortization shown separately below):			
Food and beverage	1,378,192	1,156,628	780,646
Labor	1,319,959	1,123,003	875,764
Rent	66,834	60,005	54,401
Other operating	596,305	517,808	403,726
Pre-opening	21,883	24,335	20,099
Depreciation and amortization	137,237	126,761	117,877
Impairment and closure, net	1,600	734	2,263
General and administrative	172,712	157,480	119,503
Total costs and expenses	3,694,722	3,166,754	2,374,279
Income from operations	320,197	297,192	23,844
Interest expense, net	124	3,663	4,091
Equity income (loss) from investments in unconsolidated affiliates	1,239	(637)	(500)
Income before taxes	321,312	292,892	19,253
Income tax expense (benefit)	43,715	39,578	(15,672)
Net income including noncontrolling interests	277,597	253,314	34,925
Less: Net income attributable to noncontrolling interests	7,779	8,020	3,670
Net income attributable to Texas Roadhouse, Inc. and subsidiaries	\$ 269,818	\$ 245,294	\$ 31,255
Other comprehensive income, net of tax:			
Foreign currency translation adjustment, net of tax of \$—, (\$36) and (\$40), respectively	—	106	119
Total comprehensive income	\$ 269,818	\$ 245,400	\$ 31,374
Net income per common share attributable to Texas Roadhouse, Inc. and subsidiaries:			
Basic	\$ 3.99	\$ 3.52	\$ 0.45
Diluted	\$ 3.97	\$ 3.50	\$ 0.45
Weighted average shares outstanding:			
Basic	67,643	69,709	69,438
Diluted	67,920	70,098	69,893
Cash dividends declared per share	\$ 1.84	\$ 1.20	\$ 0.36

See accompanying Notes to Consolidated Financial Statements.

**Texas Roadhouse, Inc. and Subsidiaries**

**Consolidated Statements of Stockholders' Equity**

(tabular amounts in thousands, except share data)

	Shares	Par Value	Additional Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive Loss	Total Texas Roadhouse, Inc. and Subsidiaries	Noncontrolling Interests	Total
Balance, December 31, 2019	69,400,252	\$ 69	\$ 140,501	\$ 775,649	\$ (225)	\$ 915,994	\$ 15,175	\$ 931,169
Net income	—	—	—	31,255	—	31,255	3,670	34,925
Other comprehensive income, net of tax	—	—	—	—	119	119	—	119
Noncontrolling interest contribution	—	—	—	—	—	—	133	133
Distributions to noncontrolling interest holders	—	—	—	—	—	—	(3,432)	(3,432)
Dividends declared (\$0.36 per share)	—	—	—	(24,989)	—	(24,989)	—	(24,989)
Shares issued under share-based compensation plans including tax effects	615,181	1	(1)	—	—	—	—	—
Indirect repurchase of shares for minimum tax withholdings	(201,163)	—	(11,684)	—	—	(11,684)	—	(11,684)
Repurchase of shares of common stock	(252,409)	—	(12,621)	—	—	(12,621)	—	(12,621)
Share-based compensation	—	—	29,431	—	—	29,431	—	29,431
Balance, December 29, 2020	<u>69,561,861</u>	<u>\$ 70</u>	<u>\$ 145,626</u>	<u>\$ 781,915</u>	<u>\$ (106)</u>	<u>\$ 927,505</u>	<u>\$ 15,546</u>	<u>\$ 943,051</u>
Net income	—	—	—	245,294	—	245,294	8,020	253,314
Other comprehensive income, net of tax	—	—	—	—	106	106	—	106
Distributions to noncontrolling interest holders	—	—	—	—	—	—	(8,206)	(8,206)
Dividends declared (\$1.20 per share)	—	—	—	(83,658)	—	(83,658)	—	(83,658)
Shares issued under share-based compensation plans including tax effects	595,534	—	—	—	—	—	—	—
Indirect repurchase of shares for minimum tax withholdings	(190,045)	—	(17,628)	—	—	(17,628)	—	(17,628)
Repurchase of shares of common stock	(584,932)	(1)	(51,633)	—	—	(51,634)	—	(51,634)
Share-based compensation	—	—	38,139	—	—	38,139	—	38,139
Balance, December 28, 2021	<u>69,382,418</u>	<u>\$ 69</u>	<u>\$ 114,504</u>	<u>\$ 943,551</u>	<u>\$ —</u>	<u>\$ 1,058,124</u>	<u>\$ 15,360</u>	<u>\$ 1,073,484</u>
Net income	—	—	—	269,818	—	269,818	7,779	277,597
Distributions to noncontrolling interest holders	—	—	—	—	—	—	(7,775)	(7,775)
Acquisition of noncontrolling interest	—	—	(1,395)	—	—	(1,395)	(340)	(1,735)
Dividends declared (\$1.84 per share)	—	—	—	(124,137)	—	(124,137)	—	(124,137)
Shares issued under share-based compensation plans including tax effects	474,771	—	—	—	—	—	—	—
Indirect repurchase of shares for minimum tax withholdings	(149,873)	—	(13,576)	—	—	(13,576)	—	(13,576)
Repurchase of shares of common stock	(2,734,005)	(2)	(123,057)	(89,800)	—	(212,859)	—	(212,859)
Share-based compensation	—	—	36,663	—	—	36,663	—	36,663
Balance, December 27, 2022	<u>66,973,311</u>	<u>\$ 67</u>	<u>\$ 13,139</u>	<u>\$ 999,432</u>	<u>\$ —</u>	<u>\$ 1,012,638</u>	<u>\$ 15,024</u>	<u>\$ 1,027,662</u>

See accompanying Notes to Consolidated Financial Statements.

**Texas Roadhouse, Inc. and Subsidiaries**  
**Consolidated Statements of Cash Flows**  
(in thousands)

	Fiscal Year Ended		
	December 27, 2022	December 28, 2021	December 29, 2020
<b>Cash flows from operating activities:</b>			
Net income including noncontrolling interests	\$ 277,597	\$ 253,314	\$ 34,925
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	137,237	126,761	117,877
Deferred income taxes	9,456	8,896	(19,932)
Loss on disposition of assets	5,206	3,167	3,144
Impairment and closure costs	1,770	673	2,290
Equity (income) loss from investments in unconsolidated affiliates	(1,239)	637	500
Distributions of income received from investments in unconsolidated affiliates	1,022	1,071	329
Provision for doubtful accounts	33	7	(1)
Share-based compensation expense	36,663	38,139	29,431
Changes in operating working capital:			
Receivables	11,062	(62,399)	1,058
Inventories	(6,099)	(9,231)	(2,017)
Prepaid expenses and other current assets	(6,540)	(2,485)	(2,133)
Other assets	5,775	(13,918)	(12,698)
Accounts payable	5,408	27,730	490
Deferred revenue—gift cards	33,799	67,845	23,458
Accrued wages and payroll taxes	(10,172)	12,734	12,283
Prepaid income taxes and income taxes payable	5,953	(8,973)	372
Accrued taxes and licenses	1,889	8,624	(5,700)
Other accrued liabilities	2,147	20,352	4,099
Operating lease right-of-use assets and lease liabilities	5,268	5,553	4,635
Other liabilities	(4,510)	(9,671)	38,028
Net cash provided by operating activities	<u>511,725</u>	<u>468,826</u>	<u>230,438</u>
<b>Cash flows from investing activities:</b>			
Capital expenditures—property and equipment	(246,121)	(200,692)	(154,401)
Acquisition of franchise restaurants, net of cash acquired	(33,069)	—	(10,580)
Proceeds from sale of investment in unconsolidated affiliate	316	—	—
Proceeds from the sale of property and equipment	2,269	—	1,709
Proceeds from sale leaseback transactions	12,871	5,588	2,167
Net cash used in investing activities	<u>(263,734)</u>	<u>(195,104)</u>	<u>(161,105)</u>
<b>Cash flows from financing activities:</b>			
(Payments on) proceeds from revolving credit facility, net	(50,000)	(140,000)	240,000
Debt issuance costs	—	(708)	(641)
Proceeds from noncontrolling interest contribution	—	—	133
Distributions to noncontrolling interest holders	(7,775)	(8,206)	(3,432)
Acquisition of noncontrolling interest	(1,735)	—	—
Proceeds from (payments on) restricted stock and other deposits, net	307	602	(823)
Indirect repurchase of shares for minimum tax withholdings	(13,576)	(17,628)	(11,684)
Repurchase of shares of common stock	(212,859)	(51,634)	(12,621)
Dividends paid to shareholders	(124,137)	(83,658)	(24,989)
Net cash (used in) provided by financing activities	<u>(409,775)</u>	<u>(301,232)</u>	<u>185,943</u>
Net (decrease) increase in cash and cash equivalents	(161,784)	(27,510)	255,276
Cash and cash equivalents—beginning of period	335,645	363,155	107,879
Cash and cash equivalents—end of period	<u>\$ 173,861</u>	<u>\$ 335,645</u>	<u>\$ 363,155</u>
<b>Supplemental disclosures of cash flow information:</b>			
Interest paid, net of amounts capitalized	\$ 1,547	\$ 3,186	\$ 3,890
Income taxes paid	\$ 25,910	\$ 39,789	\$ 3,776
Capital expenditures included in current liabilities	\$ 34,689	\$ 23,087	\$ 14,808

See accompanying Notes to Consolidated Financial Statements.



## **Texas Roadhouse, Inc. and Subsidiaries**

### **Notes to Consolidated Financial Statements**

**(Tabular amounts in thousands, except share and per share data)**

#### **(1) Description of Business**

Texas Roadhouse, Inc. (collectively, the "Company," "we," "our" and/or "us"), is a growing restaurant company operating predominately in the casual dining segment. Our late founder, W. Kent Taylor, started the business in 1993 with the opening of the first Texas Roadhouse restaurant in Clarksville, Indiana.

As of December 27, 2022, we owned and operated 597 restaurants and franchised an additional 100 restaurants in 49 states and ten foreign countries. Of the 597 company restaurants that were operating at December 27, 2022, 577 were wholly-owned and 20 were majority-owned and we operated 552 as Texas Roadhouse restaurants, 40 as Bubba's 33 restaurants and five as Jagers restaurants. Of the 100 franchise restaurants, 62 were domestic and 38 were international restaurants, all of which were operated as Texas Roadhouse restaurants.

As of December 28, 2021, we owned and operated 566 restaurants and franchised an additional 101 restaurants in 49 states and ten foreign countries. Of the 566 company restaurants that were operating at December 28, 2021, 546 were wholly-owned and 20 were majority-owned and we operated 526 as Texas Roadhouse restaurants, 36 as Bubba's 33 restaurants and four as Jagers restaurants. Of the 101 franchise restaurants, 70 were domestic and 31 were international restaurants, all of which were operated as Texas Roadhouse restaurants.

#### ***Risks and Uncertainties***

The Company has been subject to risks and uncertainties as a result of the COVID-19 pandemic (the "pandemic"). These include federal, state and local restrictions on restaurants, some of which limited capacity or seating in dining rooms while others allowed to-go or curbside service only. In 2022, all of our domestic company and franchise restaurants operated without restriction. In 2021 and 2020, all of our domestic company and franchise restaurants operated under various forms of capacity restrictions, which included outdoor and/or to-go or curbside service only.

#### **(2) Summary of Significant Accounting Policies**

##### ***(a) Principles of Consolidation***

The accompanying consolidated financial statements present the financial position, results of operations and cash flows of the Company and its majority-owned subsidiaries. All significant intercompany balances and transactions have been eliminated in consolidation.

As of December 27, 2022 and December 28, 2021, we had majority ownership in 20 restaurants. The portion of income attributable to noncontrolling interests in these restaurants is reflected in the line item entitled "Net income attributable to noncontrolling interests" in our consolidated statements of income and comprehensive income.

As of December 27, 2022 and December 28, 2021, we owned a 5.0% to 10.0% equity interest in 23 and 24 restaurants, respectively. Additionally, as of December 28, 2021, we owned a 40% interest in four non-Texas Roadhouse restaurants in China that was fully impaired in 2021. The unconsolidated restaurants are accounted for using the equity method. Our investments in these unconsolidated affiliates are included in other assets in our consolidated balance sheets, and we record our percentage share of net income earned by these unconsolidated affiliates in our consolidated statements of income and comprehensive income under equity income (loss) from investments in unconsolidated affiliates.

##### ***(b) Fiscal Year***

We utilize a 52 or 53 week accounting period that typically ends on the last Tuesday in December. We utilize a 13 week accounting period for quarterly reporting purposes, except in years containing 53 weeks when the fourth quarter contains 14 weeks. Fiscal years 2022, 2021 and 2020 were 52 weeks in length.

## **Texas Roadhouse, Inc. and Subsidiaries**

### **Notes to Consolidated Financial Statements**

**(Tabular amounts in thousands, except share and per share data)**

#### ***(c) Use of Estimates***

We have made a number of estimates and assumptions relating to the reporting of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reporting of revenue and expenses during the period to prepare these consolidated financial statements in conformity with U.S. generally accepted accounting principles ("GAAP"). Significant items subject to such estimates and assumptions include the carrying amount of property and equipment, goodwill, obligations related to insurance reserves, leases and leasehold improvements, legal reserves, gift card breakage and third-party fees and income taxes. Actual results could differ from those estimates.

#### ***(d) Segment Reporting***

Operating segments are defined as components of a company that engage in business activities from which it may earn revenue and incur expenses, and for which separate financial information is available and is regularly reviewed by the chief operating decision maker ("CODM"), to assess the performance of the individual segments and make decisions about resources to be allocated to the segments. The Company's operating segments have been identified in accordance with the provisions of Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") ASC 280, *Segment Reporting*.

We have identified Texas Roadhouse, Bubba's 33, Jagers and our retail initiatives as separate operating segments. In addition, we have identified Texas Roadhouse and Bubba's 33 as reportable segments. For further discussion of segment reporting, refer to Note 19.

#### ***(e) Cash and Cash Equivalents***

We consider all highly liquid debt instruments with original maturities of three months or less to be cash equivalents. Cash and cash equivalents also include receivables from credit card companies as these balances are highly liquid in nature and are settled within two to three business days. These amounted to \$22.0 million and \$26.4 million at December 27, 2022 and December 28, 2021, respectively.

#### ***(f) Receivables***

Receivables consist principally of amounts due from retail gift card providers, certain franchise restaurants for reimbursement of labor costs, pre-opening and other expenses, and franchise restaurants for royalty fees.

Receivables are recorded at the invoiced amount and do not bear interest. The allowance for doubtful accounts is our best estimate of the amount of probable credit losses in our existing accounts receivable. We determine the allowance based on historical collection experience and the age of receivables. We review our allowance for doubtful accounts quarterly. Past due balances over 120 days are reviewed individually for collectability. Account balances are charged off against the allowance after all means of collection have been exhausted and the potential for recovery is considered remote.

#### ***(g) Inventories***

Inventories, consisting principally of food, beverages and supplies, are valued at the lower of cost (first-in, first-out) or net realizable value.

#### ***(h) Property and Equipment***

Property and equipment are stated at cost less accumulated depreciation. Expenditures for major renewals and betterments are capitalized while expenditures for maintenance and repairs are expensed as incurred. Depreciation is computed on property and equipment, including assets located on leased properties, over the shorter of the estimated useful lives of the related assets or the underlying lease term using the straight-line method. In most cases, assets on

## Texas Roadhouse, Inc. and Subsidiaries

### Notes to Consolidated Financial Statements

(Tabular amounts in thousands, except share and per share data)

leased properties are depreciated over a period of time which includes both the initial term of the lease and one or more option periods. Refer to Note 2(i) for further discussion of leases.

The estimated useful lives are:

Land improvements	10 - 25 years
Buildings and leasehold improvements	10 - 25 years
Furniture, fixtures and equipment	3 - 10 years

The cost of purchasing transferable liquor licenses through open markets in jurisdictions with a limited number of authorized liquor licenses are capitalized as indefinite-lived assets and included in Property and equipment, net.

#### (i) Leases

We recognize operating lease right-of-use assets and operating lease liabilities for real estate leases, including our restaurant leases and Support Center lease, as well as certain restaurant equipment leases based on the present value of the lease payments over the lease term. We estimate the present value based on our incremental borrowing rate which corresponds to the underlying lease term. In addition, operating lease right-of-use assets are reduced for accrued rent and increased for any initial direct costs recognized at lease inception. For real estate and restaurant equipment leases commencing in 2019 and later, we account for lease and non-lease components as a single lease component.

Certain of our operating leases contain predetermined fixed escalations of the minimum rent over the lease term. For these leases, we recognize the related total rent expense on a straight-line basis over the lease term. We may receive rent concessions or leasehold improvement incentives upon opening a restaurant that is subject to a lease which we consider when determining straight-line rent expense. We also may receive rent holidays, which would begin on the possession date and end when the store opens, during which no cash rent payments are typically due under the terms of the lease. Rent holidays are included in the lease term when determining straight-line rent expense. In recognizing straight-line rent expense, we record the difference between amounts charged to operations and amounts paid as accrued rent.

Certain of our operating leases contain clauses that provide for additional contingent rent based on a percentage of sales greater than certain specified target amounts. We recognize contingent rent expense prior to the achievement of the specified target that triggers the contingent rent, provided achievement of the target is considered probable. In addition, certain of our operating leases have variable escalations of the minimum rent that depend on an index or rate. For these leases, we recognize operating lease right-of-use assets and operating lease liabilities based on the index or rate at the commencement date. Any subsequent changes to the index or rate are recognized as variable rent expense when the escalation is determinable.

Sale-leasebacks are transactions through which we sell previously acquired land at fair value and subsequently enter into a lease agreement on the same land. The resulting lease agreement is evaluated to determine classification as an operating or finance lease and is recorded based on the lease classification. Refer to Note 8 for further discussion of leases.

#### (j) Goodwill

Goodwill represents the excess of cost over fair value of assets of businesses acquired. In accordance with ASC 350, *Intangibles—Goodwill and Other* ("ASC 350"), goodwill is not subject to amortization and is evaluated for impairment on an annual basis, or sooner if an event or other circumstance indicates that goodwill may be impaired. The annual assessment date is the first day of our fourth quarter.

ASC 350 requires that goodwill be tested for impairment at the reporting unit level, or the level of internal reporting that reflects the way in which an entity manages its businesses. A reporting unit is defined as an operating segment, or one level below an operating segment. Historically, we designated our operating segment and reporting unit to be at the

**Texas Roadhouse, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**

**(Tabular amounts in thousands, except share and per share data)**

same level which we defined to be the individual restaurant. In 2021, we changed the designation of our operating segment and reporting unit to be at the concept level. As a result of this change, in 2021, we performed the goodwill impairment analysis at both the individual restaurant and concept level to substantiate that our goodwill was not impaired under either reporting unit definition. In 2022, we performed the goodwill impairment analysis at the concept level.

As stated in ASC 350, an entity may first assess qualitative factors in order to determine if it is necessary to perform the quantitative test. In 2022 and 2021, we elected to perform a qualitative assessment for our annual review of goodwill. This review included evaluating factors such as macroeconomic conditions, industry and market considerations, cost factors, changes in management or key personnel, sustained decreases in share price and the overall financial performance of the Company's reporting units at the concept level. As a result of the qualitative assessment, no indicators of impairment were identified, and no additional indicators of impairment were identified through the end of the fourth quarter that would require additional testing.

In 2022 and 2021, we determined there was no goodwill impairment. In 2020, as a result of our annual goodwill impairment analysis, we recorded goodwill impairment of \$1.1 million. Refer to Note 7 for additional information related to goodwill and intangible assets.

***(k) Other Assets***

Other assets consist primarily of deferred compensation plan assets, investments in unconsolidated affiliates and deposits. For further discussion of the deferred compensation plan, refer to Note 15 and Note 16.

***(l) Impairment or Disposal of Long-lived Assets***

In accordance with ASC 360, *Property, Plant and Equipment*, long-lived assets related to each restaurant to be held and used in the business, such as property and equipment, operating lease right-of-use assets and intangible assets subject to amortization, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of a restaurant may not be recoverable. For the purposes of this evaluation, we define the asset group at the individual restaurant level. When we evaluate the restaurants, cash flows are the primary indicator of impairment.

Recoverability of assets to be held and used is measured by a comparison of the carrying amount of the restaurant to estimated undiscounted future cash flows expected to be generated by the restaurant. Under our policies, trailing 12-month cash flow results under a predetermined amount at the individual restaurant level signals potential impairment. In our evaluation of restaurants that do not meet the cash flow threshold, we estimate future undiscounted cash flows from operating the restaurant over its estimated useful life, which can be for a period of over 20 years. In the estimation of future cash flows, we consider the period of time the restaurant has been open, the trend of operations over such period and future periods and expectations of future sales growth. Assumptions about important factors such as the trend of future operations and sales growth are limited to those that are supportable based upon the plans for the restaurant and actual results at comparable restaurants.

If the carrying amount of the restaurant exceeds its estimated undiscounted future cash flows, an impairment charge is recognized by the amount by which the carrying amount exceeds the estimated fair value of the assets. We generally measure fair value by discounting estimated future cash flows. When fair value is measured by discounting estimated future cash flows, the assumptions used are consistent with what we believe hypothetical market participants would use. We also use a discount rate that is commensurate with the risk inherent in the projected cash flows. The adjusted carrying amounts of assets to be held and used are depreciated over their remaining useful life. Refer to Note 17 for further discussion of amounts recorded as part of our impairment analysis.

## Texas Roadhouse, Inc. and Subsidiaries

### Notes to Consolidated Financial Statements

(Tabular amounts in thousands, except share and per share data)

#### *(m) Insurance Reserves*

We self-insure a significant portion of expected losses under our health, workers' compensation, general liability, employment practices liability, and property insurance programs. We purchase insurance for individual claims that exceed the retention amounts listed below:

	<u>December 27, 2022</u>	<u>December 28, 2021</u>
Employment practices liability ("EPL")	\$500,000	\$500,000
EPL Class Action	\$2,500,000	\$2,500,000
Workers' compensation	\$350,000	\$350,000
General liability	\$2,500,000	\$1,000,000
Property	\$250,000	\$250,000
Employee healthcare	\$400,000	\$400,000

We record a liability for unresolved claims and for an estimate of incurred but not reported claims based on historical experience. The estimated liability is based on a number of assumptions and factors regarding economic conditions, the frequency and severity of claims and claim development history and settlement practices. Our assumptions are reviewed, monitored, and adjusted when warranted by changing circumstances.

#### *(n) Revenue Recognition*

We recognize revenue in accordance with ASC 606, *Revenue from Contracts with Customers*, which requires an entity to allocate the transaction price received from customers to each separate and distinct performance obligation and recognize revenue as these performance obligations are satisfied. We recognize revenue from company restaurant sales when food and beverage products are sold. Restaurant sales include gross food and beverage sales, net of promotions and discounts, for all company restaurants. Sales taxes collected from customers and remitted to governmental authorities are accounted for on a net basis and therefore are excluded from restaurant sales in the consolidated statements of income and comprehensive income.

We record deferred revenue for gift cards that have been sold but not yet redeemed. When the gift cards are redeemed, we recognize restaurant sales and reduce deferred revenue. For some of the gift cards that are sold we have determined that, based on our historic gift card redemption patterns, the likelihood of redemption is remote. For these gift cards, we record a breakage adjustment and reduce deferred revenue by the amount never expected to be redeemed. We use historic gift card redemption patterns to determine the breakage rate to utilize and recognize the expected breakage amount in a manner generally consistent with the actual redemption pattern of the associated gift card. We review the breakage rate on an annual basis, or sooner if circumstances indicate that the rate may have significantly changed and update the rate accordingly as needed. In addition, we incur fees on all gift cards that are sold through third-party retailers. These fees are also deferred and generally recorded consistent with the actual redemption pattern of the associated gift cards.

We also recognize revenue from our franchising of Texas Roadhouse restaurants. This includes franchise royalties and domestic marketing and advertising fees, initial and upfront franchise fees, domestic and international development agreements and supervisory and administrative service fees. We recognize franchise royalties and domestic marketing and advertising fees as franchise restaurant sales occur. For initial and upfront franchise fees and fees from development agreements, because the services we provide related to these fees do not contain separate and distinct performance obligations from the franchise right, these fees are recognized on a straight-line basis over the term of the associated franchise agreement. We recognize fees from supervision and administrative services as incurred.

**Texas Roadhouse, Inc. and Subsidiaries**  
**Notes to Consolidated Financial Statements**

**(Tabular amounts in thousands, except share and per share data)**

***(o) Income Taxes***

We account for income taxes in accordance with ASC 740, *Income Taxes*, under which deferred assets and liabilities are recognized based upon anticipated future tax consequences attributable to differences between financial statement carrying values of assets and liabilities and their respective tax bases. We recognize both interest and penalties on unrecognized tax benefits as part of income tax expense. A valuation allowance is established to reduce the carrying value of deferred tax assets if it is considered more likely than not that such assets will not be realized. Any change in the valuation allowance would be charged to income in the period such determination was made. For all years presented, no valuation allowances have been recorded.

***(p) Advertising***

We have a domestic system-wide marketing and advertising fund. We maintain control of the marketing and advertising fund and, as such, have consolidated the fund's activity for all the years presented. Domestic company and franchise restaurants are required to remit a designated portion of sales to the advertising fund. Advertising contributions related to company restaurants are recorded as a component of other operating costs. Advertising contributions received from our franchisees are recorded as a component of franchise royalties and fees in our consolidated statements of income and comprehensive income.

Other costs related to local restaurant area marketing initiatives are included in other operating costs in our consolidated statements of income and comprehensive income. These costs and the company restaurant contribution amounted to \$25.0 million, \$21.1 million and \$13.8 million for the years ended December 27, 2022, December 28, 2021 and December 29, 2020, respectively.

***(q) Pre-opening Expenses***

Pre-opening expenses, which are charged to operations as incurred, consist of expenses incurred before the opening of a new or relocated restaurant and are comprised principally of opening team and training team compensation and benefits, travel expenses, rent, food, beverage and other initial supplies and expenses.

***(r) Comprehensive Income***

ASC 220, *Comprehensive Income*, establishes standards for reporting and the presentation of comprehensive income and its components in a full set of financial statements. Comprehensive income consists of net income and foreign currency translation adjustments which are excluded from net income under GAAP. Foreign currency translation adjustment represents the unrealized impact of translating the financial statements of our foreign investment.

***(s) Fair Value of Financial Instruments***

Fair value is defined as the price that we would receive to sell an asset or pay to transfer a liability in an orderly transaction between market participants on the measurement date. ASC 820, *Fair Value Measurements and Disclosures*, establishes a framework for measuring fair value and expands disclosures about fair value measurements. This includes a three-level hierarchy, which requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs in measuring fair value. The valuation hierarchy is based upon the transparency of inputs to the valuation of an asset or liability on the measurement date.

Level 1	Inputs based on quoted prices in active markets for identical assets.
Level 2	Inputs other than quoted prices included within Level 1 that are observable for the assets, either directly or indirectly.
Level 3	Inputs that are unobservable for the asset.

Fair value measurements are separately disclosed by level within the fair value hierarchy. Refer to Note 16 for further discussion of fair value measurement.

**Texas Roadhouse, Inc. and Subsidiaries**

**Notes to Consolidated Financial Statements**

(Tabular amounts in thousands, except share and per share data)

**(t) Recent Accounting Pronouncements**

**Reference Rate Reform**

In March 2020, the FASB issued Accounting Standards Update ("ASU") 2020-04, *Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting*, which provides temporary optional expedients and exceptions to the current guidance on contract modifications and hedge accounting. These changes are intended to simplify the market transition from the London Interbank Offered Rate ("LIBOR") and other interbank offered rates to alternative reference rates. In December 2022, the FASB issued ASU 2022-06, *Reference Rate Reform (Topic 848): Deferral of the Sunset Date of Topic 848* which defers the sunset date of Topic 848 from December 31, 2022 to December 31, 2024. We do not anticipate that the adoption of this standard will have a significant impact on our consolidated financial statements.

**(3) Revenue**

The following table disaggregates our revenue by major source:

	Fiscal Year Ended		
	December 27, 2022	December 28, 2021	December 29, 2020
Restaurant and other sales	\$ 3,988,791	\$ 3,439,176	\$ 2,380,177
Franchise royalties	23,058	21,770	15,542
Franchise fees	3,070	3,000	2,404
Total revenue	<u>\$ 4,014,919</u>	<u>\$ 3,463,946</u>	<u>\$ 2,398,123</u>

The following table presents a rollforward of deferred revenue-gift cards:

	December 27, 2022	December 28, 2021
Beginning balance	\$ 300,657	\$ 232,812
Gift card activations, net	366,606	319,698
Gift card redemptions and breakage	(331,860)	(251,853)
Ending balance	<u>335,403</u>	<u>300,657</u>

We recognized restaurant sales of \$190.5 million for the year ended December 27, 2022 related to the amount in deferred revenue as of December 28, 2021. We recognized restaurant sales of \$140.1 million for the year ended December 28, 2021 related to the amount in deferred revenue as of December 29, 2020.

**(4) Acquisitions**

On March 30, 2022, we completed the acquisition of one franchise Texas Roadhouse restaurant located in Nebraska in which we previously held a 5.49% equity interest. Pursuant to the terms of the acquisition agreement, we paid a total purchase price of \$6.6 million, net of cash acquired for 100% of the entity. The transaction was accounted for as a step acquisition and we recorded a gain of \$0.3 million on our previous investment in equity income from investments in unconsolidated affiliates in the consolidated statements of income and comprehensive income.

Additionally, on December 29, 2021, we completed the acquisition of seven franchise Texas Roadhouse restaurants located in South Carolina and Georgia. Pursuant to the terms of the acquisition agreements, we paid a total purchase price of \$26.4 million, net of cash acquired.

## Texas Roadhouse, Inc. and Subsidiaries

### Notes to Consolidated Financial Statements

(Tabular amounts in thousands, except share and per share data)

These transactions were accounted for using the acquisition method as defined in ASC 805, *Business Combinations*. These acquisitions are consistent with our long-term strategy to increase net income and earnings per share.

The following table summarizes the consideration paid (in thousands) for the acquisitions, and the estimated fair value of the assets acquired, and the liabilities assumed at the acquisition date, which are adjusted for measurement-period adjustments through December 27, 2022.

Inventory	\$ 321
Other assets	222
Property and equipment	4,841
Operating lease right-of-use assets	1,221
Goodwill	21,731
Intangible assets	6,900
Deferred revenue-gift cards	(947)
Current portion of operating lease liabilities	(47)
Operating lease liabilities, net of current portion	<u>(1,173)</u>
	<u>\$ 33,069</u>

The aggregate purchase prices are preliminary as the Company is finalizing working capital adjustments. Intangible assets represent reacquired franchise rights which will be amortized over a weighted-average useful life of 3.5 years. We expect all of the goodwill and intangible asset amortization will be deductible for tax purposes and believe the resulting amount of goodwill reflects the benefit of sales and unit growth opportunities as well as the benefit of the assembled workforce of the acquired restaurants.

Pro forma operating results for the year ended December 27, 2022 have not been presented as the results of the acquired restaurants are not material to our consolidated financial position, results of operations or cash flows.

#### (5) Long-term Debt

On May 4, 2021, we entered into an agreement to amend our revolving credit facility with a syndicate of commercial lenders led by JPMorgan Chase Bank, N.A. and PNC Bank, N.A. The amended revolving credit facility remains an unsecured, revolving credit agreement and has a borrowing capacity of up to \$300.0 million with the option to increase by an additional \$200.0 million subject to certain limitations, including approval by the syndicate of lenders. The amendment also extended the maturity date to May 1, 2026. Prior to the amendment, our original revolving credit facility had a borrowing capacity of up to \$200.0 million with the option to increase by an additional \$200.0 million subject to certain limitations, including approval by the syndicate of lenders.

The terms of the amendment require us to pay interest on outstanding borrowings at LIBOR plus a margin of 0.875% to 1.875% and pay a commitment fee of 0.125% to 0.30% per year on any unused portion of the amended revolving credit facility, in each case depending on our leverage ratio. The agreement also provides an Alternate Base Rate that may be substituted for LIBOR.

As of December 27, 2022, we had \$50.0 million outstanding on the amended revolving credit facility and \$233.5 million of availability, net of \$16.5 million of outstanding letters of credit. As of December 28, 2021, we had \$100.0 million outstanding on the amended revolving credit facility and \$189.1 million of availability, net of \$10.9 million of outstanding letters of credit. These outstanding amounts are included as long-term debt on our consolidated balance sheets.



**Texas Roadhouse, Inc. and Subsidiaries**

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The interest rate for the \$50.0 million outstanding as of December 27, 2022 was 5.21%. The interest rate for the \$100.0 million outstanding as of December 28, 2021 was 0.98%.

The lenders' obligation to extend credit pursuant to the amended revolving credit facility depends on us maintaining certain financial covenants. We were in compliance with all financial covenants as of December 27, 2022 and December 28, 2021.

**(6) Property and Equipment, Net**

Property and equipment were as follows:

	<b>December 27, 2022</b>	<b>December 28, 2021</b>
Land and improvements	\$ 148,220	\$ 144,182
Buildings and leasehold improvements	1,206,930	1,092,776
Furniture, fixtures and equipment	797,058	732,160
Construction in progress	73,639	50,809
Liquor licenses	<u>12,538</u>	<u>11,889</u>
	2,238,385	2,031,816
Accumulated depreciation and amortization	<u>(968,036)</u>	<u>(869,375)</u>
	<u><u>\$ 1,270,349</u></u>	<u><u>\$ 1,162,441</u></u>

For the years ended December 27, 2022, December 28, 2021 and December 29, 2020, the amount of interest capitalized in connection with restaurant construction was \$1.3 million, \$0.2 million and \$0.3 million, respectively.

**(7) Goodwill and Intangible Assets**

All of our goodwill and intangible assets reside within the Texas Roadhouse reportable segment. The changes in the carrying amount of goodwill and intangible assets are as follows:

	<b>Goodwill</b>	<b>Intangible Assets</b>
Balance as of December 29, 2020 (1)	\$ 127,001	\$ 2,271
Additions	—	—
Amortization expense	—	(751)
Disposals and other, net	—	—
Impairment	—	—
Balance as of December 28, 2021	<u>\$ 127,001</u>	<u>\$ 1,520</u>
Additions	21,731	6,900
Amortization expense	—	(2,813)
Disposals and other, net	—	—
Impairment	—	—
Balance as of December 27, 2022	<u><u>\$ 148,732</u></u>	<u><u>\$ 5,607</u></u>

(1) Net of \$5.9 million of accumulated goodwill impairment losses.

Intangible assets consist of reacquired franchise rights. The gross carrying amount and accumulated amortization of the intangible assets at December 27, 2022 were \$23.5 million and \$17.9 million, respectively. As of December 28, 2021, the gross carrying amount and accumulated amortization of the intangible assets were \$16.6 million and \$15.1 million, respectively. We amortize reacquired franchise rights on a straight-line basis over the remaining term of the franchise operating agreements, which varies by franchise agreement. Amortization expense for the next four years is expected to range from \$0.1 million to \$2.6 million. Refer to Note 4 for discussion of the acquisitions completed for the year ended December 27, 2022.

**Texas Roadhouse, Inc. and Subsidiaries**

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**(Tabular amounts in thousands, except share and per share data)**

**(8) Leases**

We recognize right-of-use assets and lease liabilities for both real estate and equipment leases that have a term in excess of one year. As of December 27, 2022 and December 28, 2021, these amounts were as follows:

	December 27, 2022		
	Real estate	Equipment	Total
Operating lease right-of-use assets	\$ 625,164	\$ 5,094	\$ 630,258
Current portion of operating lease liabilities	23,803	1,687	25,490
Operating lease liabilities, net of current portion	674,468	3,406	677,874
Total operating lease liabilities	\$ 698,271	\$ 5,093	\$ 703,364

	December 28, 2021		
	Real estate	Equipment	Total
Operating lease right-of-use assets	\$ 574,356	\$ 4,057	\$ 578,413
Current portion of operating lease liabilities	20,577	1,375	21,952
Operating lease liabilities, net of current portion	620,210	2,682	622,892
Total operating lease liabilities	\$ 640,787	\$ 4,057	\$ 644,844

**Texas Roadhouse, Inc. and Subsidiaries**  
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(Tabular amounts in thousands, except share and per share data)

Information related to our real estate operating leases as of and for the fiscal year ended December 27, 2022 and December 28, 2021 was as follows:

	Fiscal Year Ended	
	December 27, 2022	December 28, 2021
<b>Real estate costs</b>		
Operating lease	\$ 68,742	\$ 62,430
Variable lease	4,393	3,767
Total lease costs	<u>\$ 73,135</u>	<u>\$ 66,197</u>

Real estate lease liabilities maturity analysis	December 27, 2022
2023	\$ 66,675
2024	67,195
2025	65,206
2026	65,081
2027	65,493
Thereafter	861,414
Total	<u>\$ 1,191,064</u>
Less interest	492,793
Total discounted operating lease liabilities	<u>\$ 698,271</u>

	Fiscal Year Ended	
	December 27, 2022	December 28, 2021
<b>Real estate leases other information</b>		
Cash paid for amounts included in measurement of operating lease liabilities	\$ 63,269	\$ 57,040
Right-of-use assets obtained in exchange for new operating lease liabilities	\$ 54,666	\$ 68,921
Weighted-average remaining lease term (years)	17.57	17.88
Weighted-average discount rate	6.34 %	6.46 %

Operating lease payments exclude \$7.9 million of future minimum lease payments for executed real estate leases of which we have not yet taken possession. In addition to the above operating leases, as of December 27, 2022, we had two finance leases with a right-of-use asset balance and lease liability balance of \$2.1 million and \$2.7 million, respectively. As of December 28, 2021, we had two finance leases with a right-of-use asset balance and lease liability balance of \$2.2 million and \$2.7 million, respectively. The right-of-use asset balance is included as a component of other assets and the lease liability balance as a component of other liabilities in the consolidated balance sheets.

In 2022, we entered into four sale leaseback transactions involving land that had recently been acquired. These sales generated proceeds of \$12.9 million and no gain or loss was recognized on the transactions. In 2021, we entered into three sale leaseback transactions involving land that had recently been acquired. These sales generated proceeds of \$5.6 million and no gain or loss was recognized on the transactions. The resulting operating leases are included in the operating lease right-of-use assets and lease liabilities noted above.

**Texas Roadhouse, Inc. and Subsidiaries**

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(Tabular amounts in thousands, except share and per share data)

**(9) Income Taxes**

Components of our income tax expense (benefit) for the years ended December 27, 2022, December 28, 2021 and December 29, 2020 are as follows:

	Fiscal Year Ended		
	December 27, 2022	December 28, 2021	December 29, 2020
Current:			
Federal	\$ 15,549	\$ 16,700	\$ (648)
State	18,120	13,539	4,505
Foreign	590	443	403
Total current	<u>34,259</u>	<u>30,682</u>	<u>4,260</u>
Deferred:			
Federal	9,664	7,391	(16,859)
State	(208)	1,505	(3,073)
Total deferred	<u>9,456</u>	<u>8,896</u>	<u>(19,932)</u>
Income tax expense (benefit)	<u>\$ 43,715</u>	<u>\$ 39,578</u>	<u>\$ (15,672)</u>

Our pre-tax income is substantially derived from domestic restaurants.

A reconciliation of the statutory federal income tax rate to our effective tax rate for December 27, 2022, December 28, 2021 and December 29, 2020 is as follows:

	Fiscal Year Ended		
	December 27, 2022	December 28, 2021	December 29, 2020
Tax at statutory federal rate	21.0 %	21.0 %	21.0 %
State and local tax, net of federal benefit	3.7	3.8	3.6
FICA tip tax credit	(10.5)	(9.3)	(92.5)
Work opportunity tax credit	(1.3)	(1.2)	(12.4)
Stock compensation	(0.1)	(1.5)	(2.3)
Net income attributable to noncontrolling interests	(0.4)	(0.5)	(3.0)
Officers compensation	0.7	1.1	2.6
Other	0.5	0.1	1.6
Total	<u>13.6 %</u>	<u>13.5 %</u>	<u>(81.4)%</u>

Our effective tax rate increased to 13.6% in 2022 compared to 13.5% in 2021. The increase was primarily due to lower excess tax benefits related to our share-based compensation program partially offset by an increase in the FICA tip tax credit.

Our effective tax rate was 13.5% in 2021 compared to a tax benefit of 81.4% in 2020. The increase was primarily due to the significant increase in pre-tax income. In 2020, our FICA tip and Work opportunity tax credits exceeded our federal tax liability which resulted in a tax rate benefit.

**Texas Roadhouse, Inc. and Subsidiaries**  
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(Tabular amounts in thousands, except share and per share data)

Components of deferred tax liabilities, net are as follows:

	<u>December 27, 2022</u>	<u>December 28, 2021</u>
<b>Deferred tax assets:</b>		
Deferred revenue—gift cards	\$ 29,889	\$ 24,056
Insurance reserves	6,506	6,407
Deferred payroll taxes	-	5,995
Other reserves	1,060	1,077
Share-based compensation	5,059	6,040
Operating lease liabilities	173,853	160,638
Deferred compensation	17,934	16,233
Tax credit carryforwards	2,740	3,618
Other assets	2,991	2,801
<b>Total deferred tax asset</b>	<u>240,032</u>	<u>226,865</u>
<b>Deferred tax liabilities:</b>		
Property and equipment	(82,832)	(75,022)
Goodwill and intangibles	(8,374)	(7,742)
Operating lease right-of-use asset	(155,837)	(144,153)
Other liabilities	(13,968)	(11,682)
<b>Total deferred tax liability</b>	<u>(261,011)</u>	<u>(238,599)</u>
<b>Net deferred tax liability</b>	<u>\$ (20,979)</u>	<u>\$ (11,734)</u>

As of December 27, 2022 and December 28, 2021, we had tax credit carryforwards of \$2.7 million and \$3.6 million, respectively, primarily related to FICA tip and Work opportunity tax credit carryforwards that exceeded credit limitations. These federal carryforwards expire in 2042. We expect to generate sufficient earnings in future periods and/or may implement tax planning strategies that would allow us to fully utilize these credits. As such, we have not provided any valuation allowances for these credits, or any of our other deferred tax assets, as their realization is more likely than not.

A reconciliation of the beginning and ending liability for unrecognized tax benefits is as follows:

Balance at December 29, 2020	\$ 1,662
Additions to tax positions related to prior years	49
Additions to tax positions related to current year	413
Reductions due to statute expiration	(160)
Reductions due to exam settlement	(436)
Balance at December 28, 2021	<u>1,528</u>
Additions to tax positions related to prior years	1,545
Additions to tax positions related to current year	872
Reductions due to statute expiration	-
Reductions due to exam settlement	(20)
Balance at December 27, 2022	<u>\$ 3,925</u>

As of December 27, 2022 and December 28, 2021, the amount of unrecognized tax benefits that would impact the effective tax rate if recognized was \$2.1 million and \$1.5 million, respectively.

As of December 27, 2022 and December 28, 2021, the total amount of accrued penalties and interest related to uncertain tax provisions was recognized as a part of income tax expense and these amounts were not material.

All entities for which unrecognized tax benefits exist as of December 27, 2022 possess a December tax year-end. As a result, as of December 27, 2022, the tax years ended December 28, 2021, December 29, 2020 and December 31, 2019 remain subject to examination by all tax jurisdictions. As of December 27, 2022, no audits were in process by a

## **Texas Roadhouse, Inc. and Subsidiaries**

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tax jurisdiction that, if completed during the next twelve months, would be expected to result in a material change to our unrecognized tax benefits. Additionally, as of December 27, 2022, no event occurred that is likely to result in a significant increase or decrease in the unrecognized tax benefits through December 26, 2023.

#### **(10) Preferred Stock**

Our Board of Directors (the "Board") is authorized, without further vote or action by the holders of common stock, to issue from time to time up to an aggregate of 1,000,000 shares of preferred stock in one or more series. Each series of preferred stock will have the number of shares, designations, preferences, voting powers, qualifications and special or relative rights or privileges as shall be determined by the Board, which may include, but are not limited to, dividend rights, voting rights, redemption and sinking fund provisions, liquidation preferences, conversion rights and preemptive rights. There were no shares of preferred stock outstanding at December 27, 2022 and December 28, 2021.

#### **(11) Stock Repurchase Program**

On March 17, 2022, our Board approved a stock repurchase program under which we may repurchase up to \$300.0 million of our common stock. This stock repurchase program has no expiration date and replaced a previous stock repurchase program which was approved on May 31, 2019 that authorized the Company to repurchase up to \$250.0 million of our common stock. All repurchases to date under our stock repurchase programs have been made through open market transactions. The timing and the amount of any repurchases are determined by management under parameters established by the Board, based on an evaluation of our stock price, market conditions and other corporate considerations.

For the year ended December 27, 2022, we paid \$212.9 million to repurchase 2,734,005 shares of our common stock. This includes \$133.1 million repurchased under our current authorized stock repurchase program and \$79.7 million repurchased under our prior authorization. For the year ended December 28, 2021, we paid \$51.6 million to repurchase 584,932 shares of our common stock. As of December 27, 2022, we had \$166.9 million remaining under our authorized stock repurchase program.

#### **(12) Earnings Per Share**

The share and net income per share data for all periods presented are based on the historical weighted-average shares outstanding. The diluted earnings per share calculations show the effect of the weighted-average restricted stock units outstanding from our equity incentive plans. Performance stock units are not included in the diluted earnings per share calculation until the performance-based criteria have been met. Refer to Note 14 for further discussion of our equity incentive plans. For the years ended December 27, 2022, December 28, 2021, and December 29, 2020, the shares of non-vested stock that were not included because they would have had an anti-dilutive effect were not significant.

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The following table sets forth the calculation of earnings per share and weighted average shares outstanding as presented in the accompanying consolidated statements of income and comprehensive income:

	Fiscal Year Ended		
	December 27, 2022	December 28, 2021	December 29, 2020
Net income attributable to Texas Roadhouse, Inc. and subsidiaries	\$ 269,818	\$ 245,294	\$ 31,255
Basic EPS:			
Weighted-average common shares outstanding	67,643	69,709	69,438
Basic EPS	\$ 3.99	\$ 3.52	\$ 0.45
Diluted EPS:			
Weighted-average common shares outstanding	67,643	69,709	69,438
Dilutive effect of nonvested stock	277	389	455
Shares-diluted	67,920	70,098	69,893
Diluted EPS	\$ 3.97	\$ 3.50	\$ 0.45

**(13) Commitments and Contingencies**

The estimated cost of completing capital project commitments at December 27, 2022 and December 28, 2021 was \$205.7 million and \$135.0 million, respectively.

As of December 27, 2022 and December 28, 2021, we are contingently liable for \$11.3 million and \$12.2 million, respectively, for seven lease guarantees. These amounts represent the maximum potential liability of future payments under the guarantees. In the event of default, the indemnity and default clauses in our assignment agreements govern our ability to pursue and recover damages incurred. No liabilities have been recorded as of December 27, 2022 as the likelihood of default was deemed to be less than probable and the fair value of the guarantees is not considered significant.

During the year ended December 27, 2022, we bought most of our beef from four suppliers. Although there are a limited number of beef suppliers, we believe that other suppliers could provide a similar product on comparable terms. We have no material minimum purchase commitments with our vendors that extend beyond a year.

Occasionally, we are a defendant in litigation arising in the ordinary course of business, including "slip and fall" accidents, employment related claims, claims related to our service of alcohol, and claims from guests or employees alleging illness, injury or food quality, health or operational concerns. None of these types of litigation, most of which are covered by insurance, has had a material effect on us and, as of the date of this report, we are not party to any litigation that we believe could have a material adverse effect on our business.

**(14) Share-based Compensation**

On May 13, 2021, our stockholders approved the Texas Roadhouse, Inc. 2021 Long-Term Incentive Plan (the "Plan"). The Plan provides for the granting of various forms of equity awards including options, stock appreciation rights, full value awards, and performance-based awards. This plan replaced the 2013 Long-Term Incentive Plan and no subsequent awards will be granted under the 2013 plan.

The Company provides restricted stock units ("RSUs") to employees as a form of share-based compensation. A RSU is the conditional right to receive one share of common stock upon satisfaction of the vesting requirement. In addition to RSUs, the Company provides performance stock units ("PSUs") to executives as a form of share-based compensation. A PSU is the conditional right to receive one share of common stock upon meeting a performance obligation along with the satisfaction of the vesting requirement.

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The following table summarizes the share-based compensation recorded in the accompanying consolidated statements of income and comprehensive income:

	Fiscal Year Ended		
	December 27, 2022	December 28, 2021	December 29, 2020
Labor expense	\$ 10,656	\$ 10,323	\$ 10,081
General and administrative expense	26,007	27,816	19,350
Total share-based compensation expense	\$ 36,663	\$ 38,139	\$ 29,431

Share-based compensation activity by type of grant as of December 27, 2022 and changes during the period then ended are presented below. We recognize expense for RSUs and PSUs over the vesting term based on the grant date fair value of the award. We do not estimate forfeitures as we record them as they occur.

*Summary Details for RSUs*

	Shares	Weighted-Average Grant Date Fair Value	Weighted-Average Remaining Contractual Term (years)	Aggregate Intrinsic Value
Outstanding at December 28, 2021	558,183	\$ 82.52		
Granted	395,859	88.40		
Forfeited	(45,207)	84.26		
Vested	(413,996)	85.37		
Outstanding at December 27, 2022	494,839	\$ 84.55	0.9	\$ 47,663

As of December 27, 2022, with respect to unvested RSUs, there was \$18.5 million of unrecognized compensation cost that is expected to be recognized over a weighted-average period of 0.9 years. The vesting terms of the RSUs range from 1.0 to 5.0 years. The total intrinsic value of RSUs vested during the years ended December 27, 2022, December 28, 2021 and December 29, 2020 was \$37.1 million, \$54.7 million and \$30.5 million, respectively. The excess tax benefit associated with vested RSUs for the years ended December 27, 2022, December 28, 2021 and December 29, 2020 was \$0.4 million, \$4.3 million and \$0.4 million, respectively, which was recognized in the income tax provision.

*Summary Details for PSUs*

	Shares	Weighted-Average Grant Date Fair Value	Weighted-Average Remaining Contractual Term (years)	Aggregate Intrinsic Value
Outstanding at December 28, 2021	31,952	\$ 86.22		
Granted	29,600	86.41		
Performance shares adjustment (1)	28,074	84.96		
Forfeited	—	—		
Vested	(60,026)	86.22		
Outstanding at December 27, 2022	29,600	\$ 87.52	0.1	\$ 2,851

(1) Additional shares from the January 2021 PSU grant that vested in January 2022 due to exceeding the initial 100% target.

We grant PSUs to certain of our executives subject to a one-year vesting and the achievement of certain earnings targets, which determine the number of units to vest at the end of the vesting period. Share-based compensation expense is recognized for the number of units expected to vest at the end of the period and is expensed beginning on the grant date and through the performance period. For each grant, PSUs vest after meeting the performance and service conditions. The total intrinsic value of PSUs vested during the years ended December 27, 2022, December 28, 2021 and December 29, 2020 was \$5.4 million, \$0.4 million and \$5.4 million, respectively.



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On January 8, 2023, 31,379 shares vested related to the January 2022 PSU grant and are expected to be distributed during the 13 weeks ending March 28, 2023. As of December 27, 2022, with respect to unvested PSUs, the amount of unrecognized compensation cost that is expected to be recognized over a weighted-average period of 0.1 year was not significant. There was no allowable excess tax benefit associated with vested PSUs for the years ended December 27, 2022, December 28, 2021 and December 29, 2020.

**(15) Employee Benefit Plans**

We have a defined contribution benefit plan ("401(k) Plan") that is available to our Support Center employees and managers in our restaurants who meet certain compensation and eligibility requirements. The 401(k) Plan allows participating employees to defer the receipt of a portion of their compensation and contribute such amount to one or more investment options. Beginning in 2022, we implemented a company match of a certain percentage of the employee contributions to the 401(k) Plan. Company contributions totaling \$5.4 million and \$1.6 million were recorded in labor expense and general and administrative expense, respectively, within the consolidated statements of income and comprehensive income.

We also have a deferred compensation plan which allows highly compensated employees to defer a portion of their compensation and contribute such amounts to one or more investment funds held in a rabbi trust. The Company did not provide any contributions into this plan for any period presented. Refer to Note 16 for further discussion on the fair value measurement of the deferred compensation plan assets and liabilities.

**(16) Fair Value Measurement**

At December 27, 2022 and December 28, 2021, the fair values of cash and cash equivalents, accounts receivable and accounts payable approximated their carrying values based on the short-term nature of these instruments. At December 27, 2022 and December 28, 2021, the fair value of our amended revolving credit facility approximated its carrying value since it is a variable rate credit facility (Level 2). There were no transfers among levels within the fair value hierarchy during the year ended December 27, 2022.

The following table presents the fair values for our financial assets and liabilities measured on a recurring basis:

	Fair Value Measurements		
	Level	December 27, 2022	December 28, 2021
Deferred compensation plan—assets	1	\$ 61,835	\$ 67,512
Deferred compensation plan—liabilities	1	\$ (61,668)	\$ (67,431)

We report the accounts of the deferred compensation plan in other assets and the corresponding liability in other liabilities in our consolidated financial statements. These investments are considered trading securities and are reported at fair value based on quoted market prices. The realized and unrealized holding gains and losses related to these investments, as well as the offsetting compensation expense, are recorded in general and administrative expense in the consolidated statements of income and comprehensive income.

The following table presents the fair value of our assets measured on a nonrecurring basis:

	Fair Value Measurements			Total gain (loss)	
	Level	December 27, 2022		Fiscal Year Ended	
		December 27, 2022	December 28, 2021	December 27, 2022	December 28, 2021
Long-lived assets held for sale	3	\$ —	\$ 1,175	\$ 690	\$ (470)
Long-lived assets held for use	3	\$ 2,000	\$ —	\$ (997)	\$ —
Operating lease right-of-use assets	3	\$ —	\$ —	\$ (708)	\$ —
Investments in unconsolidated affiliates	3	\$ —	\$ —	\$ —	\$ (1,531)

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Long-lived assets held for sale include land and building at a site that was relocated and had a carrying amount of \$1.2 million as of December 28, 2021. These assets were included in prepaid expenses and other current assets in our consolidated balance sheets and were valued using a Level 3 input. These assets were sold during the fiscal year ended December 27, 2022 and resulted in a gain of \$0.7 million which is included in impairment and closure, net in our consolidated statements of income and comprehensive income. We recorded a loss of \$0.5 million related to these assets for the year ended December 28, 2021, which is included in impairment and closure, net in our consolidated statements of income and comprehensive income.

Long-lived assets held for use include the land and building for one underperforming restaurant that was impaired down to fair value in 2022. These assets are valued using a Level 3 input. This impairment, which totaled \$1.0 million, is included in impairment and closure costs, net in our consolidated statements of income and comprehensive income. For further discussion of impairment charges, refer to Note 17.

Operating lease right-of-use assets as of December 27, 2022 includes the lease related asset for two restaurants that were relocated in 2022. These assets were reduced to a fair value of zero in 2022. This resulted in a loss of \$0.7 million for the fiscal year ended December 27, 2022, which is included in impairment and closure, net in our consolidated statements of income and comprehensive income.

Investments in unconsolidated affiliates included a 40% equity interest in a joint venture in China which was fully impaired in late 2021. This asset was valued using a Level 3 input, or the amount we expected to receive upon the sale of this investment. This resulted in a loss of \$1.5 million for the year ended December 28, 2021, which is included in equity income (loss) from investments in unconsolidated affiliates in our consolidated statements of income and comprehensive income.

#### **(17) Impairment and Closure Costs**

We recorded impairment and closure costs of \$1.6 million, \$0.7 million and \$2.3 million for the years ended December 27, 2022, December 28, 2021 and December 29, 2020, respectively.

Impairment and closure costs in 2022 included \$1.7 million related to the impairment of the land, building and operating lease right-of-use assets at three restaurants, two of which have relocated and \$0.6 million related to ongoing closure costs. This was partially offset by a \$0.7 million gain on the sale of land and building that was previously classified as assets held for sale.

Impairment and closure costs in 2021 included \$0.7 million related to the impairment of the fixed assets and operating lease right-of-use assets at two restaurants, both of which have relocated.

Impairment and closure costs in 2020 included \$1.2 million related to the impairment of the fixed assets and operating lease right-of-use assets at four restaurants, all of which have relocated. In addition, in 2020, we recorded goodwill impairment of \$1.1 million related to two restaurants.

#### **(18) Related Party Transactions**

As of December 27, 2022, December 28, 2021 and December 29, 2020, we had four franchise restaurants and one majority-owned company restaurant owned in part by a current officer of the Company. We recognized revenue of \$1.8 million, \$1.7 million and \$0.9 million for the years ended December 27, 2022, December 28, 2021, and December 29, 2020, respectively, related to these restaurants.

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**(19) Segment Information**

We manage our restaurant and franchising operations by concept and as a result have identified Texas Roadhouse, Bubba's 33, Jagers, and our retail initiatives as separate operating segments. Our reportable segments are Texas Roadhouse and Bubba's 33. The Texas Roadhouse reportable segment includes the results of our domestic company Texas Roadhouse restaurants and domestic and international franchise Texas Roadhouse restaurants. The Bubba's 33 reportable segment includes the results of our domestic company Bubba's 33 restaurants. Our remaining operating segments, which include the results of our domestic company Jagers restaurants and the results of our retail initiatives, are included in Other. In addition, Corporate-related segment assets, depreciation and amortization, and capital expenditures are also included in Other.

Management uses restaurant margin as the measure for assessing performance of our segments. Restaurant margin (in dollars and as a percentage of restaurant and other sales) represents restaurant and other sales less restaurant-level operating costs, including food and beverage costs, labor, rent and other operating costs. Restaurant margin also includes sales and operating costs related to our non-royalty based retail initiatives. Restaurant margin is used by our CODM to evaluate core restaurant-level operating efficiency and performance over various reporting periods on a consistent basis.

In calculating restaurant margin, we exclude certain non-restaurant-level costs that support operations, including general and administrative expenses, but do not have a direct impact on restaurant-level operational efficiency and performance. We exclude pre-opening expense as it occurs at irregular intervals and would impact comparability to prior period results. We exclude depreciation and amortization expense, substantially all of which relates to restaurant-level assets, as it represents a non-cash charge for the investment in our restaurants. We also exclude impairment and closure expense as we believe this provides a clearer perspective of the Company's ongoing operating performance and a more useful comparison to prior period results. Restaurant margin as presented may not be comparable to other similarly titled measures of other companies in our industry.

Restaurant and other sales for all operating segments are derived primarily from food and beverage sales. We do not rely on any major customer as a source of sales and the customers and assets of our reportable segments are located predominantly in the United States. There are no material transactions between reportable segments.

The following tables reconcile our segment results to our consolidated results reported in accordance with GAAP:

	<b>Fiscal Year Ended December 27, 2022</b>			
	<b>Texas Roadhouse</b>	<b>Bubba's 33</b>	<b>Other</b>	<b>Total</b>
Restaurant and other sales	\$ 3,762,884	\$ 211,690	\$ 14,217	\$ 3,988,791
Restaurant operating costs (excluding depreciation and amortization)	<u>3,162,687</u>	<u>184,756</u>	<u>13,847</u>	<u>3,361,290</u>
Restaurant margin	<u>\$ 600,197</u>	<u>\$ 26,934</u>	<u>\$ 370</u>	<u>\$ 627,501</u>
Depreciation and amortization	\$ 112,546	\$ 13,012	\$ 11,679	\$ 137,237
Segment assets	2,015,173	201,503	308,989	2,525,665
Capital expenditures	204,662	30,625	10,834	246,121

**Texas Roadhouse, Inc. and Subsidiaries**

**Notes to Consolidated Financial Statements**

(Tabular amounts in thousands, except share and per share data)

	<b>Fiscal Year Ended December 28, 2021</b>			
	<b>Texas</b>			
	<b>Roadhouse</b>	<b>Bubba's 33</b>	<b>Other</b>	<b>Total</b>
Restaurant and other sales	\$ 3,253,889	\$ 174,355	\$ 10,932	\$ 3,439,176
Restaurant operating costs (excluding depreciation and amortization)	2,701,850	145,493	10,101	2,857,444
Restaurant margin	\$ 552,039	\$ 28,862	\$ 831	\$ 581,732
Depreciation and amortization	\$ 105,079	\$ 12,700	\$ 8,982	\$ 126,761
Segment assets	1,874,620	179,856	457,476	2,511,952
Capital expenditures	167,746	23,408	9,538	200,692
	<b>Fiscal Year Ended December 29, 2020</b>			
	<b>Texas</b>			
	<b>Roadhouse</b>	<b>Bubba's 33</b>	<b>Other</b>	<b>Total</b>
Restaurant and other sales	\$ 2,267,815	\$ 106,981	\$ 5,381	\$ 2,380,177
Restaurant operating costs (excluding depreciation and amortization)	2,011,517	98,565	4,455	2,114,537
Restaurant margin	\$ 256,298	\$ 8,416	\$ 926	\$ 265,640
Depreciation and amortization	\$ 98,485	\$ 12,036	\$ 7,356	\$ 117,877
Capital expenditures	127,162	13,833	13,406	154,401

A reconciliation of restaurant margin to income from operations is presented below. We do not allocate interest expense, net and equity income (loss) from investments in unconsolidated affiliates to reportable segments.

	<b>Fiscal Year Ended</b>		
	<b>December 27, 2022</b>	<b>December 28, 2021</b>	<b>December 29, 2020</b>
Restaurant margin	\$ 627,501	\$ 581,732	\$ 265,640
Add:			
Franchise royalties and fees	26,128	24,770	17,946
Less:			
Pre-opening	21,883	24,335	20,099
Depreciation and amortization	137,237	126,761	117,877
Impairment and closure, net	1,600	734	2,263
General and administrative	172,712	157,480	119,503
Income from operations	\$ 320,197	\$ 297,192	\$ 23,844

**(20) Subsequent Events**

On December 28, 2022, the first day of our 2023 fiscal year, we completed the acquisition of eight domestic franchise restaurants. Pursuant to the terms of the acquisition agreements, we paid an aggregate purchase price of approximately \$39.0 million. We expect to complete the preliminary purchase price allocations relating to these transactions in the first quarter of fiscal 2023.

## GUARANTEE OF PERFORMANCE

For value received, Texas Roadhouse, Inc., a Delaware corporation (the “Guarantor”), located at 6040 Dutchmans Lane, Louisville, Kentucky 40205, absolutely and unconditionally guarantees to assume the duties and obligations of Texas Roadhouse Development Corporation, located at 6040 Dutchmans Lane, Louisville, Kentucky 40205 (the “Franchisor”), under its franchise registration in each state where the franchise is registered, and under its Franchise Agreement identified in its 2023 Franchise Disclosure Document, as it may be amended, and as that Franchise Agreement may be entered into with franchisees and amended, modified or extended from time to time. This guarantee continues until all such obligations of the Franchisor under its franchise registrations and the Franchise Agreement are satisfied or until the liability of Franchisor to its franchisees under the Franchise Agreement has been completely discharged, whichever first occurs. The Guarantor is not discharged from liability if a claim by a franchisee against the Franchisor remains outstanding. Notice of acceptance is waived. The Guarantor does not waive receipt of notice of default on the part of the Franchisor. This guarantee is binding on the Guarantor and its successors and assigns.

The Guarantor signs this guarantee at Louisville, Kentucky on the 31st day of March, 2023.

Guarantor:

Texas Roadhouse, Inc.,  
a Delaware Corporation

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

Gerald L. Morgan, CEO

**EXHIBIT B**

**FRANCHISE AGREEMENT**

**TEXAS ROADHOUSE**  
**FRANCHISE AGREEMENT**

Form Dated March 31, 2023  
FDD Dated March 31, 2023

**TEXAS ROADHOUSE  
FRANCHISE AGREEMENT  
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**ATTACHMENTS**

Attachment A	-	Definitions
Attachment B	-	Selected Terms
Attachment C	-	Lease Terms
Attachment D	-	Statement of Ownership Interest
Attachment E	-	Confidentiality Agreement and Ancillary Covenants Not to Compete
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Attachment G	-	Electronic Funds Transfer
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**EXHIBITS**

Exhibit A	-	Agreement and Plan of Reorganization
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**TEXAS ROADHOUSE**  
**FRANCHISE AGREEMENT**

THIS Franchise Agreement (this “*Agreement*”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 202\_, by and between **TEXAS ROADHOUSE DEVELOPMENT CORPORATION**, a Kentucky corporation (“*Franchisor*”), and \_\_\_\_\_, a \_\_\_\_\_ (“*Franchisee*”). Certain initially capitalized terms used frequently in this Agreement are defined in Attachment A.

**WITNESSETH:**

A. Franchisor has the right to use and license the use of a distinctive System (as hereinafter defined) relating to the establishment and operation of full-service restaurants featuring a specialized menu of steaks and ribs, related food items and full bar service and (each, a “*Texas Roadhouse Restaurant*” or “**Restaurant**”).;

B. The distinguishing characteristics of the System utilized in each Texas Roadhouse Restaurant include, without limitation, distinctive exterior and interior design, decor, color scheme, and furnishings (the “*Trade Dress*”); procedures and formulae for preparing food and beverage products, specifications for certain food and beverage products, special recipes and menu items; uniform standards, specifications, and procedures for operations; quality and uniformity of products and services offered; procedures for inventory, management and financial control; training and assistance; and advertising and promotional programs; all of which may be changed, improved, and further developed by Franchisor from time to time (collectively, the “*System*”).

C. Franchisor identifies the System by means of certain trade names, service marks, trademarks, logos, emblems and indicia of origin, including, but not limited to, the mark “Texas Roadhouse”, and such other trade names, service marks, and trademarks as are now designated, and may hereafter be designated, by Franchisor in writing for use in connection with the operation of Texas Roadhouse Restaurants (the “*Marks*”).

D. Franchisee desires to use the System and the Marks in connection with the establishment and operation of one full-service Texas Roadhouse Restaurant at the Restaurant Site specified in **Exhibit “B”** hereto, as well as to receive the training and other assistance provided by Franchisor in connection therewith.

WHEREAS, in reliance on Franchisee’s representations, warranties, covenants and agreements set forth herein, Franchisor wishes to grant Franchisee a franchise for the establishment and operation of a Texas Roadhouse Restaurant upon the terms and conditions set forth in this Agreement.

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

1. GRANT

A. Grant of Rights. Subject to and in compliance and accordance with, the terms, conditions, and provisions of this Agreement and for the Term, Franchisor hereby grants to Franchisee a non-transferable and non-exclusive, right and license, and Franchisee hereby accepts the right and obligation, to operate a Texas Roadhouse Restaurant under the Marks and the System at the Location (as hereinafter defined) set forth in Attachment A in accordance with this Agreement.

B. Approved Location. The specific street address of the Restaurant location approved by Franchisor (the “*Approved Location*” or the “*Location*”) shall be located within the non-exclusive geographic area (the “*Designated Area*”) set forth in Attachment A. Franchisee acknowledges and agrees that it acquires no rights in and to the Designated Area, other than the right to select a site for the Restaurant from within its boundaries. Following Franchisor’s acceptance and Franchisee’s acquisition of the Location, the address of the Approved Location shall be entered on Attachment A and the Designated Area will be of no further force or effect. This Agreement does not grant to Franchisee the right or license to operate the Restaurant or to offer or sell any products or services described under this Agreement at or from any location other than the Approved Location.

C. Assigned Area.

(1) Upon Franchisee’s acquisition of an Approved Location for the Restaurant, Franchisee will be assigned a primary area of operation (the “*Assigned Area*”) that will also be described in Attachment A. NO ASSIGNED AREA SHALL EXCEED A TEN (10)-MILE RADIUS. Except as provided in this Agreement, and subject to Franchisee’s full compliance with this Agreement and any other agreement between Franchisee or any of its Affiliates and Franchisor or any of its Affiliates, neither Franchisor nor any Affiliate shall establish, or authorize any person or entity other than Franchisee to establish a full-service Texas Roadhouse Restaurant in the Assigned Area during the term of this Agreement. Notwithstanding the above, Franchisor, any Texas Roadhouse franchisee and any other authorized person or entity shall have the right, at any time, to market and promote the System and fill customer orders by providing catering and delivery services in the Assigned Area.

(2) Franchisor retains all rights inside and outside the Assigned Area except those that are expressly granted to Franchisee in this Agreement. Accordingly, Franchisor and its Affiliates and any other authorized person or entity may, among other things: (i) advertise and promote the System within and outside the Assigned Area; (ii) operate, and license others to operate, Texas Roadhouse Restaurants at any location outside the Assigned Area, including locations that are adjacent to the Assigned Area; (iii) except for the restriction against the establishment of another full-service Texas Roadhouse Restaurant in the Assigned Area, offer and sell, and authorize others to offer and sell, collateral products and services including those offered and sold at Texas Roadhouse Restaurants (such as pre-packaged food products, t-shirts and other Texas Roadhouse memorabilia) under the Marks or other marks at or from any location or through any channel of distribution (including, but not limited to, grocery stores, catalogs, the Internet, other retail or restaurant locations, and other food service facilities such as kiosks, concessions, or multi-brand facilities providing a limited number or representative sample of the products and services normally offered by a full-service Texas Roadhouse Restaurant); (iv) establish and operate, and license others to establish and operate, any business other than a full-service Texas Roadhouse Restaurant, including other restaurants or food related businesses, under the Marks or under other marks, including restaurants or other businesses that Franchisor or its Affiliates may operate, acquire or be acquired by, merge or consolidate with; and (v) establish and operate, and license others to establish and operate, full-service Texas Roadhouse Restaurants and other food service facilities in any Reserved Area whether or not located within the Assigned Area. A Reserved Area is any enclosed area of retail sales establishments in excess of Two Hundred Fifty Thousand (250,000) square feet, food courts, airports, hospitals, military installations, cafeterias, commissaries, schools, hotels and stadiums, arenas, ballparks, festivals, fairs and other mass gathering locations or events.

D. Area of Primary Responsibility. After Franchisee’s acquisition of an Approved Location for the Restaurant, Franchisee shall also be assigned an area of primary responsibility (the “*Area of Primary Responsibility*”) by Franchisor, which shall be set forth in Attachment A. Franchisee shall make all commercially reasonable efforts to market and promote the Restaurant in the Area of Primary Responsibility in accordance with Section 8. The Area of Primary Responsibility shall not be exclusive to Franchisee for any purpose except to the extent it includes the Assigned Area.

E. Relocation. Franchisee shall not relocate the Restaurant without the express prior written consent of Franchisor. If Franchisee is unable to continue the operation of the Restaurant at the Approved Location because of the occurrence of a Force Majeure event, then Franchisee may request approval of Franchisor to relocate the Restaurant to another location in the Assigned Area. Any other request to relocate the Restaurant shall also be subject to the same procedures. If Franchisor elects to grant Franchisee the right to relocate the Restaurant, then Franchisee shall comply with the site selection and construction procedures set forth in Section 2.

## 2. SITE SELECTION, PLANS AND CONSTRUCTION

A. Site Selection. Franchisee assumes all cost, liability, expense and responsibility for locating, obtaining and developing a site for the Restaurant within the Designated Area and for constructing and equipping the Restaurant at such site. Franchisor will provide to Franchisee written site selection guidelines and such site selection assistance as Franchisor may deem advisable, including such on-site evaluation as Franchisor may deem necessary on its own initiative or in response to Franchisee's reasonable request for site approval; provided, however, that Franchisor shall not provide an on-site evaluation for any proposed site prior to the receipt of all required information and materials concerning such site prepared and submitted in accordance with Section 2.B below. Franchisor (or its designee) may provide one (1) on-site evaluation for the Restaurant for a fee of Five Hundred and 00/100 Dollars (\$500.00). If additional on-site evaluations are deemed appropriate by Franchisor or upon Franchisee's reasonable request, Franchisor reserves the right to charge a reasonable fee for performing each such evaluation, together with the payment or reimbursement of the reasonable expenses incurred by Franchisor (or its designee) in connection with such on-site evaluation. Reasonable expenses include, without limitation, the cost of travel, lodging and meals.

B. Site Approval. Within one hundred twenty (120) days from the Effective Date, Franchisee shall locate and obtain Franchisor's approval of a site within the Designated Area suitable for the operation of the Restaurant and acceptable to Franchisor. Any proposed site for the Restaurant shall satisfy Franchisor's site selection guidelines. Upon identifying a proposed site that meets such guidelines, Franchisee shall submit to Franchisor (in the form specified by Franchisor) a description of the site, including demographic profile information and other evidence satisfactory to Franchisor demonstrating that the site satisfies Franchisor's site selection guidelines, together with such other information as Franchisor may reasonably require which confirms Franchisee's favorable prospects for obtaining the site. Franchisee agrees that it will submit such information to Franchisor not later than sixty (60) days after the Effective Date. Franchisor will have sixty (60) days after receipt of this information to approve or disapprove, in its sole discretion, the proposed site as the Location for the Restaurant. No site may be used for the Location of the Restaurant unless it is first approved in writing by Franchisor, and Franchisee shall not make any binding commitment with respect to a site for the Restaurant prior to receipt of Franchisor's written approval in accordance with this Agreement. Franchisee acknowledges that Franchisor's approval of a site and the rendering of assistance in the selection of a site does not constitute a representation, promise, warranty or guarantee by Franchisor, express or implied, that the Restaurant operated at that site will be profitable or otherwise successful.

C. Site Acquisition; Environmental Audit; Lease and Contract of Sale. Within one hundred eighty (180) days after Franchisor has approved the site for the Restaurant, Franchisee shall acquire the site by purchase or lease, at Franchisee's expense, unless Franchisee obtains an extension of such time period from Franchisor in writing. Failure by Franchisee to acquire the site for the Restaurant within the time and in the manner required herein shall constitute a material event of default under this Agreement.

(1) Before Franchisee enters into any binding agreement for the acquisition of the approved site, Franchisee shall obtain and furnish to Franchisor a Phase I environmental site assessment (an "*Environmental Audit*") of the site. The Environmental Audit shall be prepared by a competent, reputable environmental engineering firm and shall contain or refer to all reports, studies, analyses, database

searches, interviews and visual inspections that indicate the potential or actual presence of hazardous or toxic materials in, on or under the site or that relate to compliance by Franchisee's predecessors in interest with any environmental laws that apply to the site. Franchisor reserves the right to revoke its approval of the site if the Environmental Audit discloses any risk of contamination or unlawful uses that might expose the owner or lessee of the site to a liability in excess of Five Thousand and 00/100 Dollars (\$5,000.00) to clean up and eliminate the source of the contamination or unlawful use.

(2) Not later than ten (10) Business Days prior to the proposed date of execution, Franchisee shall submit a copy of the proposed contract of sale or lease to Franchisor for its review and written consent. Franchisee acknowledges that Franchisor's review and/or consent of the contract of sale or lease is only for consistency with this Agreement and not for reliance of business terms. Except as otherwise expressly set forth in this Section C(2), Franchisor will not consent to any contract of sale or lease which contains any term that is contrary to or inconsistent with any provision of this Agreement, nor shall Franchisor consent to any lease unless the lease includes terms and conditions substantially in the form on Attachment B to this Agreement. Notwithstanding the foregoing, in the event Franchisee entered into a lease prior to the Effective Date for an Approved Location in accordance with a previously executed franchise agreement between Franchisor and Franchisee, then Franchisee shall use commercially reasonable effort to cause its landlord to incorporate the terms and conditions set forth on Attachment B to this Agreement. Following Franchisor's consent and the execution of the lease or contract of sale, as applicable, Franchisee shall furnish to Franchisor a copy of the executed contract of sale or lease within ten (10) days after execution. After a site for the Restaurant is approved by Franchisor and acquired by Franchisee pursuant to this Agreement, the address of the Location shall be entered in Attachment A.

D. Zoning, Permits, Licenses. Franchisee shall be responsible for obtaining all zoning classifications and clearances, including approval of the standard Texas Roadhouse building materials and signage, which may be required by state or local laws, ordinances or regulations or which may be necessary as a result of any restrictive covenants relating to the Restaurant premises (including, without limitation, those relating to zoning, easements, curb cuts, building height, signage, building materials, environmental matters, setbacks, and special conditions). Prior to beginning the construction or remodeling of the Restaurant, Franchisee shall (i) obtain all permits, licenses and certifications required for the lawful construction or remodeling of the Restaurant (including sign placement), (ii) ensure that a liquor license will be issued upon completion of the Restaurant, (iii) provide to Franchisor a comprehensive construction schedule detailing site specific construction and development activities, and (iv) certify in writing to Franchisor that the insurance coverage specified in Section 7 is in full force and effect and that all required approvals, clearances, permits and certifications have been obtained. Upon request, Franchisee shall provide to Franchisor additional copies of Franchisee's insurance policies or certificates of insurance and copies of all such approvals, clearances, permits and certifications.

E. Plans. Franchisee must independently obtain any architectural, engineering and design services necessary for the construction or remodeling of the Restaurant at its own expense. Franchisee shall adapt the prototypical architectural and design plans provided to Franchisee by Franchisor in accordance with Section 5.C as necessary for the construction or remodeling of the Restaurant and shall submit such adapted plans to Franchisor for review and approval. Alternatively, at Franchisor's discretion, Franchisee shall prepare and submit to Franchisor for Franchisor's review architectural and design plans for the Restaurant conforming to Franchisor's specifications provided under Section 5.C. All such architectural and design plans (whether adapted from Franchisor's prototypical plans or designed to conform to Franchisor's specifications) shall be provided to Franchisor for review and approval prior to the commencement of construction or remodeling of the Restaurant premises. If Franchisor determines, in its sole discretion, that any such plans are not consistent with the best interests of the System, Franchisor may prohibit the implementation of such plans, and in this event will notify Franchisee of any objections within sixty (60) days of receiving such plans. If Franchisor fails to notify Franchisee of any objections to the plans within this time period, Franchisee may use such plans. If Franchisor objects to any such plans, it shall provide Franchisee with a reasonably detailed list of changes necessary to make the plans acceptable.

Franchisor shall notify Franchisee within thirty (30) days of receiving the resubmitted plans whether the plans are acceptable. If Franchisor fails to notify Franchisee of any objection within such time period, Franchisee may use the resubmitted plans.

F. Construction. Franchisee shall commence and diligently pursue construction or remodeling of the Restaurant, as applicable. Commencement of construction or remodeling shall be defined as the time at which any site work is initiated by or on behalf of Franchisee at the Location approved for the Restaurant. Site work includes, without limitation, paving of parking areas, installing outdoor lighting and sidewalks, extending utilities, demising of interior walls and demolishing of any existing premises. During the time of construction or remodeling, Franchisee shall provide to Franchisor such periodic reports regarding the progress of the construction or remodeling as may be reasonably requested by Franchisor. In addition, Franchisor may make such on-site inspections as it may deem reasonably necessary to evaluate such progress and may charge a fee (plus expenses) in connection therewith. Franchisee shall notify Franchisor of the scheduled date for completion of construction or remodeling not later than sixty (60) days prior to such date. Within a reasonable time after the date of completion of construction or remodeling, Franchisor shall, at its option, conduct an inspection of the completed Restaurant. Franchisee acknowledges and agrees that Franchisee will not open the Restaurant for business without the prior written authorization of Franchisor and that authorization to open shall be conditioned upon Franchisee's strict compliance with this Agreement and System Standards.

G. Opening Date.

(1) Subject to Franchisee's compliance with the conditions stated herein, Franchisee shall open the Restaurant and commence business within two hundred forty (240) days after the Effective Date, unless Franchisee obtains an extension of such time period from Franchisor in writing. Franchisee acknowledges that time is of the essence. The date the Restaurant opens for business to the public as provided herein (the "**Opening Date**") shall be set forth in Attachment A and Franchisee shall provide written notice to Franchisor of its projected Opening Date at least four (4) weeks prior to its projected Opening Date.

(2) Prior to opening, Franchisee shall complete all exterior and interior preparations for the Restaurant, including installation of equipment, fixtures, furnishings and signs, pursuant to the plans and specifications approved by Franchisor, and shall comply with all other pre-opening obligations of Franchisee, including, but not limited to, those obligations described in Sections 6.B-G below, to Franchisor's satisfaction. Within thirty (30) days following the issuance of the certificate of occupancy, Franchisee shall provide Franchisor with a copy of such certificate of occupancy, together with all such other information relating to the construction of the Restaurant as Franchisor may require. If Franchisee fails to comply with any of such obligations, Franchisor shall have the right to prohibit Franchisee from commencing business. Franchisee's failure to open the Restaurant and commence business in accordance with the foregoing shall be deemed a material event of default under this Agreement.

3. TERM AND RENEWAL

A. Initial Term. Unless sooner terminated as provided in Section 17 hereof, the term of this Agreement shall continue from the Effective Date until the earlier of (i) ten (10) years from Opening Date or (ii) the expiration or termination of Franchisee's right to possess the Restaurant premises.

B. Renewal. Franchisee may, at its option, renew the rights under this Agreement for two (2) additional consecutive terms of five (5) years each (provided that such renewal term shall automatically terminate upon the expiration or termination of Franchisee's right to possess the Restaurant premises),

subject to any or all of the following conditions which must, in Franchisor's discretion, be met prior to and at the time of renewal:

(1) Franchisee shall give Franchisor written notice of Franchisee's election to renew not less than six (6) months nor more than twelve (12) months prior to the end of the initial term or first renewal term, as applicable;

(2) Franchisee shall repair or replace, at Franchisee's cost and expense, equipment (including computer hardware and software), signs, interior and exterior decor items, fixtures, furnishings, catering or delivery vehicles, if applicable, supplies and other products and materials required for the operation of the Restaurant as Franchisor may reasonably require and shall obtain, at Franchisee's cost and expense, any new or additional equipment, fixtures, supplies and other products and materials which may be reasonably required by Franchisor for Franchisee to offer and sell new menu items from the Restaurant or to provide the Restaurant's services by alternative means such as through carry-out, catering or delivery arrangements and shall otherwise modernize the Restaurant premises, equipment (including computer hardware and software), signs, interior and exterior decor items, fixtures, furnishings, catering or delivery vehicles, if applicable, supplies and other products and materials required for the operation of the Restaurant, as reasonably required by Franchisor to reflect the then-current Standards and image of the System as contained in the Manuals or otherwise provided in writing by Franchisor;

(3) Franchisee shall not be in default, and shall not have previously been in default, of any provision of this Agreement, any amendment hereof or successor hereto, or any other agreement between Franchisee or any of its Affiliates and Franchisor or any of its Affiliates, and Franchisee shall have substantially and timely complied with all the terms and conditions of such agreements during the terms thereof;

(4) Franchisee shall have satisfied all monetary obligations owed by Franchisee to Franchisor and its Affiliates under this Agreement and any other agreement between Franchisee or any of its Affiliates and Franchisor or any of its Affiliates and shall have timely met those obligations throughout the terms thereof;

(5) Franchisee shall present satisfactory evidence that the Restaurant premises and surrounding area continue to satisfy the System's site selection and image Standards and Franchisee has the right to remain in possession of the Restaurant premises or obtains Franchisor's approval of a new site for the operation of the Restaurant for the duration of the renewal term of this Agreement;

(6) FRANCHISEE SHALL EXECUTE FRANCHISOR'S THEN-CURRENT FORM OF FRANCHISE AGREEMENT, which agreement shall supersede this Agreement in all respects, and the terms of which may differ from the terms of this Agreement, including, without limitation, a higher percentage royalty fee, a higher marketing contribution or expenditure requirement, a more restrictive Assigned Area and a different roll-up formula; provided, that Franchisee shall pay to Franchisor, in lieu of an initial franchise fee, a renewal fee equal to the greater of thirty percent (30%) of the then-current initial franchise fee or Fifteen Thousand and 00/100 Dollars (\$15,000.00), plus all amounts necessary to reimburse Franchisor for its reasonable out-of-pocket costs and expenses associated with renewing the franchise, including, without limitation, legal and accounting fees;

(7) Franchisee and its Principals shall have executed a general release, in a form satisfactory to Franchisor, of any and all claims against Franchisor and, its parent, Affiliates, successors and assigns, their respective officers, directors, shareholders, partners, members, agents, representatives, independent contractors, servants and employees of each of them, in their corporate and individual capacities, including, without limitation, claims arising under this Agreement and federal, state and local laws, rules and regulations; and

(8) Franchisee shall comply with Franchisor's then-current qualification and training requirements.

4. FEES

A. Initial Franchise Fee. Franchisee shall pay to Franchisor an initial franchise fee of Forty Thousand and 00/100 Dollars (\$40,000.00) in two (2) installments in the following manner: (i) an initial amount of Fifteen Thousand and 00/100 Dollars (\$15,000.00) shall be paid upon Franchisee's execution of this Agreement; and (ii) the remaining Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) shall be paid at least four (4) weeks before the Opening Date. The installments of the initial franchise fee when so paid shall be deemed fully earned and nonrefundable in consideration of the administrative and other expenses incurred by Franchisor in granting the license hereunder and for its lost or deferred opportunity to grant such license to any other party.

B. Royalty Fee.

During the term of this Agreement, Franchisee shall pay to Franchisor, in partial consideration for the rights herein granted, a continuing royalty fee of four percent (4%). The royalty fee represents payment for the ongoing use of the System and is in addition to any other costs associated with services which may be provided by Franchisor. The royalty fee and any other periodic fee required by the Agreement shall be due and payable each month based on the Royalty Sales for the preceding month and shall be paid so that it is received by Franchisor on or before the twentieth (20th) day following the end of each month, provided that such day is a Business Day. If the date on which such payments would otherwise be due is not a Business Day, then payment shall be due on the next Business Day.

C. Electronic Funds Transfer. Upon Franchisee's execution of this Agreement and at any time thereafter as Franchisor may require, Franchisee shall execute Attachment F to this Agreement and all other documents and instruments necessary to permit Franchisor to withdraw by electronic funds transfer from Franchisee's designated bank account the royalty fee, marketing contribution and any other amounts owed to Franchisor or its Affiliates on the date or dates that such amounts are due. For payments based on Royalty Sales, Franchisee agrees that Franchisor may calculate the amounts due based on its electronic review of Franchisee's records (as further described in Section 7.E(9) below). If information for the applicable period is subsequently received, and reflects (i) that the actual amount due was more than the amount of the payment, then Franchisor shall be entitled to withdraw additional funds representing the amount of the difference, or (ii) that the actual amount due was less than the amount of the payment, then Franchisor shall credit the excess amount to the payment of Franchisee's future obligations, as applicable. Franchisee agrees that it shall be responsible for any transfer fee or similar charge imposed by the processing bank, and for the amount of the payment due (plus any service charge) should any electronic funds transfer not be honored for any reason. If payments are not received when due, interest may be charged by Franchisor in accordance with Section 4.D below. To facilitate the implementation of this Section 4.C, Franchisee further agrees that it shall at all times throughout the term of this Agreement maintain a minimum balance of Sixteen Thousand and 00/100 Dollars (\$16,000) in Franchisee's bank account designated in Attachment F.

D. Overdue Payments. Franchisee shall not be entitled to withhold payments due Franchisor under this Agreement on grounds of alleged nonperformance by Franchisor hereunder. Any payment not actually received by Franchisor on or before the date due shall be deemed overdue. Time is of the essence with respect to all payments to be made by Franchisee to Franchisor. All unpaid obligations under this Agreement shall bear interest beginning five (5) days after the date due until paid at the lesser of (i) eighteen percent (18%) per annum, or (ii) the maximum rate allowed by applicable law. Notwithstanding anything to the contrary contained herein, no provision of this Agreement shall require the payment or permit the collection of interest in excess of the maximum rate allowed by applicable law. If any excess of interest in such respect is herein provided for, or shall be adjudicated to be so provided in this Agreement, the provisions of this paragraph shall govern and prevail, and neither Franchisee nor its Principals shall be

obligated to pay the excess amount of such interest. If for any reason interest in excess of the maximum rate allowed by applicable law shall be deemed charged, required or permitted, any such excess shall be applied as a payment and reduction of any other amounts which may be due and owing hereunder, and if no such amounts are due and owing hereunder then such excess shall be repaid to the party that paid such interest.

E. Royalty Sales. For the purposes of determining the royalties to be paid hereunder, the term “**Royalty Sales**” shall mean the total selling price of all services and products and all income of every other kind and nature related to the Restaurant, whether for cash or credit and regardless of collection in the case of credit. Proceeds from the sale of coupons, gift cards, gift certificates or vouchers will not be included in Royalty Sales when the coupons, gift cards, gift certificates or vouchers are sold; rather, the retail price of services and products purchased with coupons, gift cards, gift certificates or vouchers will be included in Royalty Sales during the period in which the coupon, gift card, gift certificate or voucher is redeemed.

Notwithstanding the foregoing, the term “**Royalty Sales**” shall expressly exclude the following:

- (1) Sums representing sales taxes collected directly from customers, based upon present or future laws of federal, state or local governments, collected by Franchisee in the operation of the Restaurant, and any other tax, excise or duty which is levied or assessed against Franchisee by any federal, state, municipal or local authority, based on sales of specific merchandise sold at or from the Restaurant, provided that such taxes are actually transmitted to the appropriate taxing authority;
- (2) Tips or gratuities paid directly by Restaurant customers to employees of Franchisee or paid to Franchisee and then turned over to such employees by Franchisee in lieu of direct tips or gratuities;
- (3) Returns to shippers or manufacturers;
- (4) Proceeds from isolated sales of trade fixtures not constituting any part of Franchisee’s products and services offered for resale at the Restaurant nor having any material effect upon the ongoing operation of the Restaurant required under this Agreement;
- (5) The value of any meals provided to Franchisee’s employees as an incident to their employment, except to the extent that Franchisee receives payment for such meals; and
- (6) Any proceeds resulting from the sale of the Restaurant or Franchisee’s rights hereunder.

Franchisor may, from time to time, authorize certain other items to be excluded from Royalty Sales. Any such permission may be revoked or withdrawn at any time in writing by Franchisor in its discretion.

F. Other Fees. Franchisee shall pay such other fees or amounts described in this Agreement.

## 5. FRANCHISOR’S OBLIGATIONS

Franchisor agrees to provide or arrange for the provision of the services described below with regard to the Restaurant:

A. Site Selection Assistance. Written site selection guidelines and such site selection assistance as Franchisor deems advisable.

B. On-Site Evaluations. On-site evaluation of the Approved Location pursuant to the terms of this Agreement, the sufficiency of which Franchisee hereby acknowledges.



C. Architectural Plans. Franchisor shall provide, on loan, a set of prototypical architectural and design plans for a Texas Roadhouse Restaurant, or, at Franchisor's discretion, specifications for such Restaurant. Franchisee shall independently, and at Franchisee's expense, have such prototypical architectural and design plans adapted for construction or remodeling of the Restaurant or shall prepare architectural and design plans for the Restaurant in accordance with Franchisor's specifications.

D. Manuals. On loan, access to one set of Manuals that Franchisor has developed for use in the franchised business.

E. Software. At Franchisor's discretion, for a reasonable cost, certain computer software to be used in the operation of the Restaurant, which may be licensed to Franchisee by Franchisor or its Affiliate or a third party designated or approved by Franchisor, and/or ongoing support, which may be provided by Franchisor, its Affiliate, or a third party designated or approved by Franchisor. If Franchisor licenses such computer software to Franchisee, then Franchisor shall also make available to Franchisee at a reasonable cost any upgrades, enhancements or replacements to the software that are developed from time to time by or on behalf of Franchisor.

F. Quality Inspections. Visits to the Restaurant and evaluations of the products sold and services rendered therein from time to time as reasonably determined by Franchisor, as more fully described in Section 7.E(6).

G. Marketing Materials. Certain marketing and promotional materials and information developed or acquired by Franchisor from time to time for use by Franchisee in marketing and conducting local marketing for the Restaurant at a reasonable cost to Franchisee. Franchisor shall have the right to review and approve or disapprove all marketing and promotional materials that Franchisee proposes to use, pursuant to Section 8.

H. Operational Advice. Advice and written materials concerning techniques of managing and operating the Restaurant from time to time developed by Franchisor, including new developments and improvements in restaurant equipment and food products and the packaging and preparation thereof.

I. Collateral Merchandise, Equipment and Decor. From time to time and at Franchisor's discretion Franchisor may make available, at a reasonable cost, for resale to Franchisee's customers, certain merchandise identifying the System, such as pre-packaged food products and Texas Roadhouse memorabilia. Similarly, at Franchisor's discretion, Franchisor may make available from time to time certain restaurant equipment and decor items at a reasonable cost.

J. Supplier List. A list of approved and designated suppliers as described in Section 7.D from time to time as Franchisor deems appropriate.

K. Training. An initial training program and other training programs for Franchisee's Operating Principal, Managers and other Restaurant personnel in accordance with the provisions of Sections 6.G(1), (2) and (3).

L. Opening Assistance. On-site pre-opening and opening assistance at the Restaurant in accordance with the provisions of Section 6.G(4).

6. FRANCHISEE'S AGREEMENTS, REPRESENTATIONS, WARRANTIES AND COVENANTS

A. Restaurant Operations. Each of Franchisee and the Controlling Principals covenants and agrees that it shall make all commercially reasonable efforts to operate the Restaurant so as to achieve optimum sales in strict accordance with this Agreement and in compliance with all applicable laws, codes, and policies.

B. Organization and Ownership Information. If Franchisee is a corporation, partnership, limited liability company or other form of legal entity, Franchisee and the Controlling Principals represent, warrant and covenant that:

(1) Franchisee is duly organized and validly existing under the state law of its formation;

(2) Franchisee is duly qualified and is authorized to do business in each jurisdiction in which its business activities or the nature of the properties owned by it require such qualification;

(3) Franchisee's corporate charter, written partnership agreement, written limited liability company operating agreement or other governing documents shall at all times provide that the activities of Franchisee are confined exclusively to the operation of the Restaurant, unless otherwise consented to in writing by Franchisor and shall contain no term that is contrary to or inconsistent with any provision of this Agreement, as determined by Franchisor in its sole discretion;

(4) The execution of this Agreement by Franchisee and the consummation of the transactions contemplated hereby are within Franchisee's corporate power, if Franchisee is a corporation, or if Franchisee is a partnership, permitted under Franchisee's written partnership agreement and have been duly authorized by Franchisee;

(5) If Franchisee is a corporation, partnership, limited liability company or other entity, Franchisee shall have provided to Franchisor, prior to the execution of this Agreement, true and correct copies as applicable of Franchisee's articles of incorporation, bylaws, partnership agreement, articles of organization and limited liability company operating agreement and other governing documents and any amendments thereto, as well as resolutions of the Board of Directors, partners or members authorizing entry into and performance of this Agreement. During the term of this Agreement, Franchisee shall promptly provide to Franchisor true and correct copies of any amendments or other changes to such governing documents. No such documents shall contain any provision that is contrary to or inconsistent with any provision of this Agreement;

(6) If Franchisee is a corporation, partnership, limited liability company or other form of legal entity, the ownership interests in Franchisee are accurately and completely described in Attachment C. Further, if Franchisee is a corporation, Franchisee shall maintain at all times a current list of all owners of record and all beneficial owners of any class of voting securities in Franchisee or, if Franchisee is a partnership or other form of legal entity, Franchisee shall maintain at all times a current list of all owners of an interest in the partnership or entity. Franchisee shall make its list of owners available to Franchisor upon request;

(7) If Franchisee is a corporation, Franchisee shall maintain stop-transfer instructions against the transfer on its records of any of its equity securities and each stock certificate representing stock of the corporation shall have conspicuously endorsed upon it a statement in a form satisfactory to Franchisor that it is held subject to all restrictions imposed upon assignments by this Agreement; provided, however, that the requirements of this Section shall not apply to the transfer of equity securities of a publicly-held corporation (as defined in Attachment A). If Franchisee is a partnership, its written partnership agreement

shall provide that ownership of an interest in the partnership is held subject to all restrictions imposed upon assignments by this Agreement;

(8) Franchisee and, at Franchisor's request, each of the Controlling Principals, have provided Franchisor with the most recent financial statements of Franchisee and such Controlling Principals. Such financial statements present fairly the financial position of Franchisee and each of the Controlling Principals, as applicable, at the dates indicated therein and with respect to Franchisee, the results of its operations and its cash flow for the years then ended. Franchisee agrees that it shall maintain at all times, during the term of this Agreement, sufficient working capital to fulfill its obligations under this Agreement. Each of the financial statements mentioned above has been prepared in conformity with generally accepted accounting principles applicable to the respective periods involved and, except as expressly described in the applicable notes, applied on a consistent basis. No material liabilities, marketing claims, commitments or obligations of any nature exist as of the date of this Agreement, whether accrued, unliquidated, absolute, contingent or otherwise, which are not reflected as liabilities on the financial statements of Franchisee or the Controlling Principals. Franchisee shall provide Franchisor with any and all loan or other documents regarding the financing of its franchised business that Franchisor may request;

(9) If, after the execution of this Agreement, any person ceases to qualify as one of Franchisee's Principals (defined in Attachment A) or if any individual succeeds to or otherwise comes to occupy a position which would, upon designation by Franchisor, qualify him as one of Franchisee's Principals, Franchisee shall notify Franchisor within ten (10) days after any such change and, upon designation of such person by Franchisor as one of Franchisee's Principals or as a Controlling Principal, as the case may be, such person shall execute such documents and instruments (including, as applicable, this Agreement) as may be required by Franchisor to be executed by others in such positions; and

(10) Franchisee's Controlling Principals shall execute the Controlling Principals' Guaranty and Assumption Agreement following the signature page to this Agreement and shall, jointly and severally, guarantee Franchisee's performance of all of Franchisee's obligations, covenants and agreements hereunder and shall otherwise bind themselves to the terms of this Agreement as stated therein. Franchisee's Principals that are not Controlling Principals shall each execute and bind themselves to the confidentiality and noncompetition covenants set forth in the Confidentiality Agreement and Ancillary Covenants Not to Compete which forms Attachment D to this Agreement (see Section 10.F).

Franchisee and the Controlling Principals acknowledge and agree that the representations, warranties and covenants set forth above in Sections 6.B(1)-(10) are continuing obligations of Franchisee and the Controlling Principals, as applicable, and that any failure to comply with such representations, warranties and covenants shall constitute a material event of default under this Agreement. Franchisee and the Controlling Principals will cooperate with Franchisor in any efforts made by Franchisor to verify compliance with such representations, warranties and covenants.

C. Operating Principal. Upon Franchisee's execution of this Agreement, Franchisee shall designate and retain an individual to serve as the Operating Principal of the Restaurant (the "***Operating Principal***"). The Operating Principal shall be one (1) of the Controlling Principals. If Franchisee is an individual, Franchisee shall perform all obligations of the Operating Principal. If Franchisee or its Affiliates operate multiple Texas Roadhouse Restaurants, Franchisee must designate the same person to serve as the Operating Principal under all Franchise Agreements between it and its Affiliates and Franchisor. The Operating Principal shall be empowered with the sole authority to act for and on behalf of Franchisee and shall, during the entire period he or she serves as Operating Principal, meet the following qualifications:

(1) The Operating Principal must maintain a direct or indirect ownership interest in Franchisee. Except as may otherwise be provided in this Agreement, the Operating Principal's interest in Franchisee shall be and shall remain free of any pledge, mortgage, hypothecation, lien, charge, encumbrance, voting agreement, proxy, security interest or purchase right or options.

(2) The Operating Principal may but need not serve as the Managing Partner (as defined in Section 6.D).

(3) The Operating Principal shall devote substantial full time and best efforts to the supervision and conduct of the franchised business. Operating Principal shall execute this Agreement as one of the Controlling Principals, and shall be individually, jointly and severally, bound by all obligations of Franchisee, the Operating Principal and the Controlling Principals hereunder.

(4) The Operating Principal (and any designee) shall meet Franchisor's standards and criteria for such individual, as set forth in the Manuals as defined herein or otherwise in writing by Franchisor.

(5) If, during the term of this Agreement, the Operating Principal or any designee is not able to continue to serve in the capacity of Operating Principal or no longer qualifies to act as such in accordance with this Section, Franchisee shall promptly notify Franchisor and designate a replacement within thirty (30) days after the Operating Principal or such designee ceases to serve, such replacement being subject to the same qualifications and restrictions listed above. Franchisee shall provide for interim management of the activities contemplated under this Agreement until such replacement is so designated, such interim management to be conducted in accordance with this Agreement. Any failure to comply with the requirements of this Section 6.C shall be deemed a material event of default under this Agreement.

D. Managing Partner. Concurrently with the execution of this Agreement, Franchisee shall designate and retain at all times a Managing Partner (the "**Managing Partner**") to direct the operation and management of the Restaurant. The Managing Partner shall be responsible for the daily operation of the Restaurant. The Managing Partner may, but need not, be the same as the Operating Principal, but any Managing Partner who owns an ownership interest in Franchisee shall be one of the Controlling Principals, whether or not such person also serves as the Operating Principal. The Managing Partner (including, without limitation, any Managing Partner designated by an Operating Principal under Section 6.C(2)) shall, during the entire period he serves as Managing Partner, meet the following qualifications:

(1) The Managing Partner shall devote full time and best efforts to the supervision and management of the Restaurant. Without limitation of the foregoing, the Managing Partner shall have day-to-day responsibility for compliance with Franchisor's standards regarding recruiting, staff selection, training, service and kitchen shift staffing requirements, wait person station size, menus, recipes, kitchen food quality, plate presentation, temperature and preparation time guidelines, and shall at all times use best efforts that such standards are met.

(2) The Managing Partner must be approved by Franchisor and all background checks of the Managing Partner must be reviewed by Franchisor. The Managing Partner shall satisfy Franchisor's educational and business experience criteria as set forth in the Manuals as defined herein or otherwise in writing by Franchisor and shall at all times be an individual acceptable to Franchisor.

(3) The Managing Partner shall satisfy the training requirements set forth in Section 6.G.

(4) Franchisee acknowledges that the qualifications and experience of the Managing Partner are essential to the successful operation of the Restaurant and the System. Franchisee must therefore compensate the Managing Partner at a level commensurate with the skills and experience required and such compensation shall include a bonus or profit-sharing pay component that is a significant portion of the Managing Partner's total compensation. We do not specify a minimum compensation package for Managing Partners, but we reserve the right to review and approve the compensation package you offer.

(5) If, during the term of this Agreement, the Managing Partner is not able to continue to serve in such capacity or no longer qualifies to act as such in accordance with this Section, Franchisee shall promptly notify Franchisor and designate a replacement within thirty (30) days after the Managing Partner ceases to serve, such replacement being subject to the same qualifications listed above. Franchisee shall provide for interim management of the Restaurant until such replacement is so designated, such interim management to be conducted in accordance with the terms of this Agreement. Any failure to comply with the requirements of this Section 6.D shall be deemed a material event of default under this Agreement.

E. Market Partner. If this Agreement relates to the second (2<sup>nd</sup>) Restaurant that Franchisee and its Affiliates own, concurrently with the execution of this Agreement, Franchisee shall designate and retain at all times a Market Partner (the “**Market Partner**”) to supervise the Managing Partners and other senior managers and the operations of each Texas Roadhouse Restaurant that Franchisee and its Affiliates own. Without Franchisor’s prior approval, a Market Partner may not supervise more than eight (8) Restaurants and, unless Franchisor otherwise agrees, Franchisee shall be obligated to designate and retain an additional Market Partner not later than the time that Franchisee and its Affiliates open their ninth (9th) Restaurant. The Market Partner may not be involved in or supervise any other business or restaurant concept outside of Texas Roadhouse. The Market Partner may not be involved or supervise any other business or restaurant concept outside of Texas Roadhouse. The Market Partner, may, but need not, be the same person as the Operating Principal. Any designation of an individual other than the Operating Principal is subject to the written consent of Franchisor. Franchisor may grant or withhold its consent to any such designee in its reasonable discretion, giving due consideration to the requirements for a Market Partner set forth below. Each Market Partner shall, during the entire period he serves as a Market Partner, meet the following qualifications:

(1) The Market Partner shall devote full time and best efforts to the supervision of the Managing Partners and other senior managers of the Restaurants operated by Franchisee and its Affiliates. Without limitation of the foregoing, the Market Partner shall use best efforts that the Managing Partner of each such Restaurant complies with Franchisor’s standards regarding training, service and kitchen shift staffing requirements, wait person station size, menus, recipes, kitchen food quality, plate presentation, temperature and preparation time guidelines.

(2) The Market Partner must be interviewed by Franchisor and all background checks of the Market Partner must be reviewed by Franchisor. The Market Partner shall satisfy Franchisor’s educational and business experience criteria as set forth in the Manuals as defined herein and in writing by Franchisor and shall at all times be an individual acceptable to Franchisor.

(3) The Market Partner shall satisfy the training requirements set forth in Section 6.G.

(4) Franchisee acknowledges that the qualifications and experience of all Market Partners are critical to the successful operation of the Restaurants that Franchisee and its Affiliates operate and the Texas Roadhouse System and further acknowledges that it is beneficial that all Market Partners of franchised Texas Roadhouse Restaurants be compensated at a rate commensurate with their skills and experience. Franchisee therefore agrees to compensate each Market Partner at a level commensurate with the skills and experience that a multi-restaurant supervisor must possess. Franchisee must also allow the Market Partner to purchase an ownership interest in Franchisee of each Restaurant under the supervision of the Market Partner. Alternatively, with the prior consent of Franchisor, Franchisee may provide that the Market Partner is entitled to some percentage of the proceeds of sale of a Restaurant to a third party not Affiliated with Franchisee after five (5) years of employment. Franchisor reserves the right to review and approve the compensation package that Franchisee offers to each Market Partner, as well as the amount and timing of the options to purchase ownership interests or any alternative arrangement. Franchisor’s approval shall not be unreasonably withheld.

(5) If, during the term of this Agreement, the Market Partner assigned to supervise the Restaurant is not able to continue to serve in such capacity or no longer qualifies to act as such in accordance with this Section, Franchisee shall promptly notify Franchisor and designate a replacement within thirty (30) days after the Market Partner ceases to serve, such replacement being subject to the same qualifications listed above. Franchisee shall provide for interim supervision of the Restaurant until such replacement is so designated, such interim supervision to be conducted in accordance with the terms of this Agreement. Any failure to comply with the requirements of this Section 6.E shall be deemed a material event of default under this Agreement.

F. Other Specified Personnel. Franchisee will employ such additional managers and support personnel for the Restaurant as Franchisor from time to time designates in the Manuals. Franchisee will hire people for these positions who possess the qualifications and skills that Franchisor designates to perform the functions that Franchisor specifies. Prior to hiring people for management or key hourly positions, Franchisee will provide to Franchisor for Franchisor's approval a summary of each such person's experience and qualifications for the position to be filled. Franchisee will ensure that each such employee receives the initial and supplemental training that Franchisor requires. If Franchisor assigns a multi-Restaurant supervisory or oversight role to any such position, Franchisee will comply with Franchisor's guidelines for determining the number of Restaurants an individual may supervise or serve and, if appropriate, for sharing the individual's compensation with Franchisor and operators of other Restaurants.

G. Training and Assistance. Franchisee agrees that it is necessary to the continued operation of the System and the Restaurant that the Operating Principal (including any successor or replacement Operating Principal) and other Restaurant personnel receive such training as Franchisor may require. Accordingly, Franchisee agrees as follows:

(1) Your Managing Partner shall begin the initial training program no later than one (1) year before Restaurant operations begin. All other managers must be hired at least six (6) months prior to the date on which the Restaurant opens. No later than one hundred eighty (180) days prior to the Opening Date, Franchisee's Operating Principal, Market Partner (if a new Market Partner must be hired in connection with the Restaurant's opening), three (3) to four (4) managers selected by Franchisee and approved by Franchisor ("**Managers**"), shall attend Franchisor's initial training program. Training shall be completed, to Franchisor's satisfaction, not later than forty-five (45) days prior to turnover. Franchisor may, in its discretion, extend the initial training program for any Operating Principal, Market Partner or Manager in order to satisfy itself of his or her capabilities. Such an extension may delay the opening of the Restaurant. The parties acknowledge that the Restaurant may not open for business until training is complete to Franchisor's satisfaction. Training shall be conducted by Franchisor or its designee at a Texas Roadhouse Restaurant operated by Franchisor or its Affiliate or other location designated by Franchisor. If the Restaurant is the first (1st) Texas Roadhouse Restaurant developed by Franchisee, Franchisor shall provide instructors and training materials for the initial training of the Operating Principal and Managers at no additional charge to Franchisee. Notwithstanding the foregoing sentence, if Franchisee controls, is controlled by, or is under common control with one (1) or more other Franchisees that have previously established Texas Roadhouse Restaurants, Franchisor reserves the right to charge a reasonable fee for any initial training provided by Franchisor. Franchisor also reserves the right to charge a reasonable fee for any initial training provided by Franchisor to any initial Operating Principal, market partner, manager, or other restaurant personnel for any Texas Roadhouse Restaurant established by Franchisee subsequent to the first such Texas Roadhouse Restaurant and otherwise for any initial training provided to any replacement or successor Operating Principal, market partner, manager or other restaurant personnel, whether for Franchisee's first or a subsequent Restaurant, if Franchisee is not approved by Franchisor to provide such training. Franchisee shall be responsible for any and all expenses incurred by Franchisee, its Operating Principal, Market Partner, Managers, and other Restaurant personnel in connection with any initial training program, including, without limitation, costs of travel, lodging, meals and wages.

Franchisor shall determine, in its sole discretion, whether the Operating Principal, the Market Partner and the Managers have satisfactorily completed initial training. If the initial training program is not satisfactorily completed by the Operating Principal, the Market Partner or any Manager, or if Franchisor in its reasonable business judgment based upon the performance of the Operating Principal, the Market Partner or any Manager determines that the training program cannot be satisfactorily completed by any such person, Franchisee shall designate a replacement to satisfactorily complete such training. Any Operating Principal, Market Partner or Manager subsequently designated by Franchisee shall also receive and complete such initial training.

(2) Franchisee's Operating Principal, Market Partner, Managers and such other Restaurant personnel as Franchisor shall designate shall attend such additional training programs and seminars as Franchisor may offer from time to time, if Franchisor requires such attendance. For all such programs and seminars, Franchisor will provide the instructors and training materials. However, Franchisor reserves the right to impose a reasonable fee for such additional training programs and seminars. Franchisee shall be responsible for any and all expenses incurred by Franchisee, its Operating Principal, Market Partner, Managers and other Restaurant personnel in connection with such additional training, including, without limitation, costs of travel, lodging, meals, and wages. In addition, Franchisor may from time to time require certain personnel employed by Franchisee to attend periodic system-wide meetings held at locations designated by Franchisor to address matters of general interest to the System. Franchisee shall cause all required personnel to attend such meetings and shall be responsible for the travel expenses, room, board and wages of its personnel attending the meetings.

(3) Notwithstanding the above, upon the request of Franchisor and at all times subject to Franchisor's approval, Franchisee shall, at its expense, conduct the initial training program and other training programs required by Franchisor for any Operating Principal, Manager or other Restaurant personnel for any Texas Roadhouse Restaurant developed by Franchisee subsequent to the first such Texas Roadhouse Restaurant and for any replacement or successor Operating Principal, Manager, and other Restaurant personnel at any of Franchisee's Texas Roadhouse Restaurants. Prior to approving Franchisee to provide training, Franchisor shall have the right to evaluate Franchisee's Restaurant operations to determine whether they comply with Franchisor's operational requirements and to certify those persons whom Franchisee will use to conduct training. Franchisee shall pay a reasonable fee, plus expenses, to Franchisor in connection with obtaining training certification. In addition, Franchisor may require Franchisee to have any person trained by Franchisee examined by Franchisor. If Franchisor determines, in its discretion, that any such person has not satisfactorily completed training, Franchisor may require that person to be retrained by Franchisor and may require Franchisee to pay a retraining fee, plus expenses. Franchisor's approval of Franchisee to conduct training may be revoked at any time in its discretion if Franchisee fails to continue to meet Franchisor's operational and training standards.

(4) In connection with the opening of the Restaurant and following Franchisor's receipt of funds for those fees referenced in Section 4.A above, Franchisor shall provide to Franchisee or arrange for the provision of an opening crew of trained representatives. The opening crew will provide on-site pre-opening and opening training, supervision, and assistance to Franchisee for a period of time ranging from fifteen (15) to twenty (20) days, although Franchisor may extend that period in its discretion. The number of opening crew representatives and the time period for which such assistance will be provided shall be determined by Franchisor based upon its assessment of Franchisee's operational requirements. For all members of the opening crew in excess of one (1), Franchisee shall pay the fee then being charged to franchisees generally for opening crew assistance and shall pay or reimburse Franchisor or its designee for any expenses incurred by opening crew members, such as costs of travel, lodging and meals. Franchisee shall deposit with Franchisor or its designee all amounts that may be necessary to discharge estimated opening crew costs and expenses. Franchisee must make the deposit before Franchisor will schedule dates of availability or make travel arrangements for the opening crew.

(5) Upon the reasonable request of Franchisee or as Franchisor shall deem appropriate, Franchisor shall, during the term hereof, subject to the availability of personnel, provide Franchisee with additional trained representatives who shall provide on-site remedial training to Franchisee's Restaurant personnel. Franchisee shall pay the fee then being charged to Franchisees under the System for the services of such trained representatives, plus their costs of travel, lodging and meals.

H. Agreements with Respect to Management Personnel. Franchisee and the Controlling Principals understand that compliance by all Franchisees operating under the System with Franchisor's training, development and operational requirements is an essential and material element of the System and that Franchisor and Franchisees operating under the System consequently expend substantial time, effort and expense in training management personnel for the development and operation of their respective Texas Roadhouse Restaurants. Accordingly, if Franchisee or any Controlling Principal shall, during the term of this Agreement, designate as Managing Partner or Market Partner, or employ in a managerial, supervisory or trainer position any individual who is at the time or was within the preceding ninety (90) days employed in a managerial, supervisory or trainer position by Franchisor or any of its Affiliates or Franchisees, including, but not limited to, individuals employed to work in Texas Roadhouse Restaurants operated by Franchisor or any Affiliate or by any other Franchisee, then Franchisee and the Controlling Principals agree to pay the former employer of such individual an amount equal to the reasonable costs and expenses, of whatever nature or kind, incurred by the former employer in connection with the training of such employee. The parties agree that such expenditures may be uncertain and difficult to ascertain and therefore agree that the compensation specified herein reasonably represents such expenditures and is not a penalty. An amount equal to the compensation of such employee for the six (6)-month period (or such shorter time, if applicable) immediately prior to the termination of his employment with such former employer shall be paid by Franchisee or the applicable Controlling Principal, as the case may be, prior to such individual assuming the position of Managing Partner or other managerial position. In seeking any individual to serve as Managing Partner or in such other managerial or training position, Franchisee and the Controlling Principals shall not discriminate in any manner whatsoever against any individual to whom the provisions of this Section apply, on the basis of the compensation required to be paid hereunder, if Franchisee or any Controlling Principal designates or employs such individual. The parties expressly acknowledge and agree that no current or former employee of Franchisor, its Affiliates, Franchisee, or of any other entity operating under the System shall be a third party beneficiary of this Agreement or any provision hereof, except for the covenant stated in the immediately preceding sentence. Franchisor hereby expressly disclaims any representations and warranties regarding the performance of any employee or former employee of Franchisor, its Affiliates or any Franchisee under the System, who is designated as Franchisee's Managing Partner or employed by Franchisee or any of the Controlling Principals in any capacity, and Franchisor shall not be liable for any losses, of whatever nature or kind, incurred by Franchisee or any Controlling Principal in connection therewith.

I. Legal Compliance. Franchisee shall comply with all requirements of federal, state and local laws, rules, regulations, and orders. Franchisee shall comply with all other requirements and perform such other obligations as provided hereunder.

J. Material Agreements. In addition to the information and agreements that Franchisee is required to submit under other provisions of this Agreement (including, without limitation, Sections 2.F, 6.B and 14.G), Franchisee shall also submit to Franchisor for its review and written consent, at least ten (10) Business Days prior to the date of execution or filing, any material contracts or agreements proposed to be entered into with respect to the Restaurant (including, without limitation, any financing agreement). No such contract or agreement shall contain any term which is contrary to or inconsistent with any provision of this Agreement.

K. Privacy.



(1) Franchisee will comply with all Privacy Laws and Franchisor's standards and take such actions and execute such documents as requested by Franchisor that are necessary for compliance with any Privacy Laws by Franchisor or its Affiliates. Franchisee will not take any action that could cause Franchisor or its Affiliates to violate any of the Privacy Laws. Franchisee will reimburse Franchisor and its Affiliates for all costs and damages incurred in connection with Franchisee's loss of Personal Data, or Franchisee's non-compliance with applicable Privacy Laws or Franchisor's standards.

(2) Franchisor may, from time-to-time, specify in the Manuals or otherwise in writing the information that Franchisee shall collect and maintain on the Computer System installed at the Restaurant, and Franchisee shall provide to Franchisor such reports as Franchisor may reasonably request from the Data so collected and maintained. All Data pertaining to or derived from the Restaurant (including without limitation data pertaining to or otherwise about Restaurant customers and Personal Data) is and shall be the exclusive property of Franchisor, and Franchisor hereby grants a royalty-free non-exclusive and limited license to Franchisee to use said Data during the Term. Franchisee may not sublicense, sell, enrich, transfer, or otherwise process the Data without Franchisor's written authorization.

(3) Franchisee shall abide by all applicable Privacy Laws.

(4) Franchisee shall comply with Franchisor's standards pertaining to Privacy Laws. If there is a conflict between Franchisor's standards pertaining to Privacy Laws and actual applicable law, Franchisee shall: (i) comply with the requirements of applicable law; (ii) immediately give Franchisor written notice of such conflict; and (iii) promptly and fully cooperate with Franchisor and Franchisor's counsel in determining the most effective way, if any, to meet Franchisor's standards pertaining to Privacy Laws within the bounds of applicable law.

(5) Franchisee shall not publish, disseminate, implement, revise, or rescind a data privacy policy without Franchisor's prior written consent as to said policy.

(6) Franchisee shall notify Franchisor with seventy-two (72) hours upon discovering a Data Security Incident. With respect to Personal Data or Confidential Information, Franchisee will take commercially reasonable measures, including measures: (i) to preserve the security of such Personal Data or Confidential Information; (ii) to prevent unauthorized access to or unauthorized modification of such Personal Data or Confidential Information or a Franchisee system (including all associated interfaces, hardware and software); and (iii) to establish and maintain environmental, safety, facility and data security procedures and other safeguards against destruction, loss, alteration or theft of, or unauthorized access to, such Personal Data or Confidential Information.

(7) Franchisee shall implement appropriate technical, physical, and administrative safeguards to protect Franchisee's Computer Systems and Personal Data.

L. Digital Marketing Platforms. Franchisor may, in its sole discretion, establish and operate Digital Marketing Platforms to promote the Marks and the System. Franchisor shall have the sole right to control all aspects of any Digital Marketing Platforms. Unless Franchisor consents otherwise in writing, Franchisee may not, directly or indirectly, conduct or be involved in any Digital Marketing Platforms that use the Marks or that relate to the System. If Franchisor allows Franchisee to establish and operate any Digital Marketing Platforms, Franchisee must comply with any policies, standards, guidelines, or content requirements that Franchisor may establish periodically and must immediately modify or delete any Digital Marketing Platforms that Franchisor determines, in its sole discretion, is not compliant with such policies, standards, guidelines, or requirements. Franchisor may withdraw its approval for any Digital Marketing Platforms at any time.

## 7. RESTAURANT OPERATIONS

A. Standards. Franchisee understands the importance of maintaining uniformity among all of the Texas Roadhouse Restaurants and the importance of complying with all of Franchisor's Standards, specifications, policies and procedures relating to the operation of the Restaurant. Notwithstanding the foregoing, however, if in the reasonable judgment of Franchisor local conditions or other special circumstances warrant a deviation from such standards, specifications, policies, or procedures, then Franchisor may allow such deviation. Franchisee acknowledges that any deviation allowed for a franchise restaurant does not guarantee that Franchisor will allow Franchisee to so deviate and does not authorize Franchisee to deviate without express approval of Franchisor.

B. Maintenance. Franchisee shall maintain the Restaurant in a high degree of sanitation, repair and condition, and in connection therewith shall make such additions, alterations, repairs and replacements thereto (but no others without Franchisor's prior written consent) as may be required for that purpose, including, without limitation, such biannual repainting or restaining of building, replacement of obsolete signs, furnishings, equipment (including, but not limited to, computer hardware, software and related documentation), and decor as Franchisor may reasonably direct and to obtain, at Franchisee's cost and expense, any new or additional equipment (including computer hardware, software and related documentation), fixtures, supplies and other products and materials which may be reasonably required by Franchisor for Franchisee to offer and sell new menu items from the Restaurant or to provide the Restaurant's services by alternative means, such as through carry-out, catering or delivery arrangements. Except as may be expressly provided in the Manuals, no alterations or improvements or changes of any kind in design, equipment, signs, interior or exterior decor items, fixtures or furnishings shall be made in or about the Restaurant or its premises without the prior written approval of Franchisor.

C. Improvements and Modernization. Franchisee will obtain, at Franchisee's cost and expense any new or additional equipment, Computer System, or other computer hardware, other computer software and related documentation, fixtures, supplies, and other products and materials, which may be reasonably required by Franchisor for Franchisee to offer and sell new menu items or to provide the Restaurant's services by alternative means, such as through carry-out, catering or delivery arrangements and (ii) will make other improvements to modernize the Restaurant to Franchisor's then-current standards and specifications (including, without limitation, improvements and additions to, and substitutions of, equipment, computer hardware, computer software and related documentation), signs, interior and exterior decor items, fixtures, furnishings, Restaurant building and premises, and supplies and other products and materials required for the operation of the Restaurant, each of which may be reasonably necessary to conform the Restaurant Site and the Restaurant to conform to Franchisor's then-current standards and image of the System as contained in the Manuals or otherwise provided in writing by Franchisor, in each case: (A) as required by Franchisor from time to time for Franchisee to offer and sell new menu items or to provide the Restaurant's services by alternative means, such as through carry-out, catering, or delivery arrangements; (B) as a condition of any renewal under Section 3.2; and (C) every five (5) calendar years following the Opening Date, if requested by Franchisor specifications. Notwithstanding anything to the contrary contained in the above, Franchisee agrees that it will make such capital improvement or modifications described in this Section 7 if so requested by Franchisor in writing on or before the fifth anniversary of the Opening Date. The Franchisee acknowledges and agrees that the requirements of this Section 7.C are both reasonable and necessary to ensure continued public acceptance and patronage of Texas Roadhouse Restaurants and to avoid deterioration or obsolescence in connection with the operation of the business. Standards and Specifications; Approved and Designated Suppliers.

(1) Franchisee shall comply with all of Franchisor's standards and specifications relating to the purchase of all food and beverage items, ingredients, supplies, materials, fixtures, furnishings, equipment (including computer hardware, software and related documentation), decor items, signs, catering or delivery vehicles and other products used or offered for sale at the Restaurant. Except as provided in Section 7.F, Section 7.G and Section 7.K, Franchisee shall obtain such items from suppliers

(including manufacturers, distributors and other sources) who continue to demonstrate the ability to meet Franchisor's then-current standards and specifications for these and other items used or offered for sale at Texas Roadhouse Restaurants; who possess adequate quality controls and capacity to supply Franchisee's needs promptly and reliably; who have been approved in writing by Franchisor prior to any purchases by Franchisee from any such supplier; and who have not thereafter been disapproved by Franchisor. If Franchisee desires to purchase, lease or use any products or other items from an unapproved supplier, Franchisee shall submit to Franchisor a written request for such approval, or shall request the supplier itself to do so. Franchisee shall not purchase or lease from any supplier until and unless such supplier has been approved in writing by Franchisor. Franchisor shall have the right to require that its representatives be permitted to inspect the supplier's facilities, and that samples from the supplier be delivered, either to Franchisor or to an independent laboratory designated by Franchisor for testing. A charge not to exceed the reasonable cost of the inspection and the actual cost of the test shall be paid by Franchisee or the supplier. Franchisor reserves the right, at its option, to re-inspect from time to time the facilities and products of any such approved supplier and to revoke its approval upon the supplier's failure to continue to meet any of Franchisor's then-current criteria. Nothing in the foregoing shall be construed to require Franchisor to approve any particular supplier. Franchisee acknowledges and agrees that (a) Franchisor may change the number of approved suppliers at any time and may designate itself, an Affiliate, or a third party as the exclusive source for any particular item; (b) Franchisor may profit from Franchisee's purchases from approved suppliers; and (c) Franchisor and/or its Affiliates may receive payments, fees, commissions or reimbursements from such suppliers in respect of Franchisee's purchases.

(2) Notwithstanding the procedures set forth in Section 7.D(1) above, prior to purchasing any furniture, fixtures and equipment for the Restaurant, Franchisee shall submit detailed specifications therefore to Franchisor for its approval.

(3) Franchisee acknowledges and agrees that products, equipment, and technology are constantly changing, whether updated, improved, replaced, or discontinued. Consequently, such changes sometimes create transition and incompatibility challenges. By entering into this Agreement, Franchisee acknowledges the potential of such occurrences and assumes all risk associated herewith, which Franchisee acknowledges may affect its ability to order, receive, or sell products and/or offer services for a period of time and further acknowledges that Franchisor is not responsible for any damages caused by such issues or occurrences, including lost sales or profits.

D. Operations. To ensure that the highest degree of quality and service is maintained, Franchisee shall operate the Restaurant in strict conformity with the methods, standards and specifications of Franchisor, as set forth in the Manuals and as may from time to time otherwise be prescribed in writing. In particular, and without limitation of the foregoing, Franchisee also agrees:

(1) To sell or offer for sale all menu items, products and services required by Franchisor and utilizing the method, manner and style prescribed by Franchisor, including, but not limited to, dine-in, carry-out, catering and delivery services, as expressly authorized by Franchisor in writing. Franchisee agrees to comply with the terms of any such program and to execute such documents or instruments that Franchisor may deem necessary in connection therewith.

(2) To sell and offer for sale only the menu items, products and services that have been expressly approved for sale in writing by Franchisor; to discontinue selling and offering for sale any menu items, products or services and any method, manner or style of distribution which Franchisor may, in its sole discretion, disapprove in writing at any time; and to refrain from deviating from Franchisor's standards and specifications without Franchisor's prior written consent.

(3) To maintain in sufficient supply and to use and sell at all times only such food and beverage items, ingredients, products, materials, supplies and paper goods that conform to Franchisor's standards and specifications; to prepare all menu items in accordance with Franchisor's recipes and

procedures for preparation contained in the Manuals or other written directives, including, but not limited to, the prescribed measurements of ingredients; and to refrain from deviating from Franchisor's standards and specifications by the use or offer of non-conforming items or differing amounts of any items, without Franchisor's prior written consent.

(4) To permit Franchisor or its agents, at any reasonable time, to remove a reasonable number of samples of food or non-food items from Franchisee's inventory, or from the Restaurant, without payment therefor, in amounts reasonably necessary for testing by Franchisor or an independent laboratory to determine whether such samples meet Franchisor's then-current standards and specifications. In addition to any other remedies it may have under this Agreement, Franchisor may require Franchisee to bear the cost of such testing if the supplier of the item has not previously been approved by Franchisor or if the sample fails to conform with Franchisor's specifications.

(5) To purchase or lease and install, at Franchisee's expense, all fixtures, furnishings, equipment (including computer hardware, software and related documentation), decor items, signs, catering or delivery vehicles, and related items as Franchisor may reasonably direct from time to time in the Manuals or otherwise in writing; and to refrain from installing or permitting to be installed on or about the Restaurant premises, without Franchisor's prior written consent, any fixtures, furnishings, equipment, catering or delivery vehicles, decor items, signs, games, vending machines or other items not previously approved as meeting Franchisor's standards and specifications. If any of the property described above is leased by Franchisee from a third party, such lease shall be approved by Franchisor, in writing, prior to execution. Franchisor's approval shall be conditioned upon such lease containing a provision which permits any interest of Franchisee in the lease to be assigned to Franchisor or its Affiliate upon the termination or expiration of this Agreement and which prohibits the lessor from imposing an assignment or related fee upon Franchisor or its Affiliate in connection with such assignment.

(6) To grant Franchisor and its agents the right to enter upon the Restaurant premises and any Restaurant catering or delivery motor vehicles at any time for the purpose of conducting inspections; to cooperate with Franchisor's representatives in such inspections by rendering such assistance as they may reasonably request; and, upon notice from Franchisor or its agents and without limiting Franchisor's other rights under this Agreement, to take such steps as may be necessary to correct immediately any deficiencies detected during any such inspection. Should Franchisee, for any reason, fail to correct such deficiencies within a reasonable time as determined by Franchisor, Franchisor shall have the right and authority (without, however, any obligation to do so) to correct such deficiencies and charge Franchisee a reasonable fee for Franchisor's expenses in so acting, payable by Franchisee immediately upon demand.

(7) To maintain a competent, conscientious, trained staff and to take such steps as are necessary to ensure that its employees preserve good customer relations and comply with such dress code as Franchisor may prescribe.

(8) To play in the Restaurant only such recorded music as Franchisor may from time to time require in the Manual or otherwise in writing and to obtain such copyright licenses as may be necessary to authorize the playing of such recorded music. If Franchisor obtains the required licenses on behalf of some or all of its franchisees as a group by request of Franchisee or due to Franchisee's failure to obtain the required licenses, Franchisee will reimburse Franchisor a pro rata share of the aggregate license fees and costs that Franchisor pays or incurs to obtain the copyright licenses. Reimbursement will be due upon Franchisor's submission to Franchisee of an invoice for Franchisee's share of the license fees and related costs. Franchisee acknowledges that Franchisor has no obligation to obtain the copyright licenses on behalf of its franchisees and that Franchisor may discontinue the practice at any time.

(9) To install and maintain such equipment, make such arrangements and follow such procedures as Franchisor may require in the Manuals or otherwise in writing (including, without limitation,

the establishment and maintenance of an Internet access account and the daily transfer of data via a closed communications network or “*intranet*”) to permit Franchisor to access and retrieve electronically, by telecommunication or other designated method, any information stored in Franchisee’s electronic cash registers or computer systems, including, without limitation, information concerning the Royalty Sales of the Restaurant. Franchisee further agrees that Franchisor will have and be afforded access to such information at the times and in the manner that Franchisor may specify from time to time. It will be a material event of default under this Agreement if Franchisee fails to make such information accessible to Franchisor at all times throughout the term of this Agreement and Franchisor may, in its discretion and without limitation of any other rights provided for in this Agreement, assess a reasonable monetary charge for such failure.

(10) To properly maintain all landscaping and lighting in accordance with Franchisor’s standards as set forth in the Manual or otherwise in writing.

(11) To adhere to Franchisor’s standards regarding training, service and kitchen shift staffing requirements, wait person station size and kitchen food quality, plate presentation, temperature and preparation time guidelines.

(12) To maintain the days and hours of operation specified by Franchisor in the Manual or otherwise in writing and not to deviate therefrom without Franchisor’s prior written consent.

(13) To comply with Franchisor’s dress and grooming requirements, including a requirement that all of Franchisee’s employees wear uniforms that have been approved by Franchisor.

(14) To notify all vendors and service providers, in writing, that Franchisor has the right to not assume the obligations of Franchisee under any contract in the event Franchisor acquires the assets of Franchisee in accordance with Section 14.I.

E. Computer Systems. Franchisee shall install and maintain the computer hardware and software (including, without limitation, point of sale software) Franchisor requires for the operation of the Restaurant and shall follow the procedures related thereto that Franchisor specifies in the Manuals or otherwise in writing. Among other things, Franchisor may require that Franchisee install and maintain systems that permit Franchisor to access and retrieve electronically any information stored in Franchisee’s computer systems, including, without limitation, information concerning Royalty Sales, at the times and in the manner that Franchisor may specify from time to time. Franchisee shall enter into a software license agreement substantially in the form attached as Attachment E for software Franchisor develops or acquires for use in the System and shall pay all associated license, maintenance and support fees. All information contained in and collected by any required computer program shall be the sole and exclusive property of Franchisor. Franchisee acknowledges and agrees that protection of customer privacy and credit card information is necessary to protect the goodwill of businesses operating under the Marks and the System. Accordingly, Franchisee agrees that it will cause its Restaurant to meet or exceed, at all times, all applicable security standards developed by the Payment Card Industry Data Security Standards (“*PCI DSS*”) council, or its successor, and other regulations and industry standards applicable to the protection of customer privacy and credit card information, including but not limited to the Fair and Accurate Credit Transaction Act (“*FACTA*”) and all other successor or additional laws, and all other data security requirements Franchisor prescribes. Franchisee is solely responsible for educating itself as to these regulations and standards and for achieving and maintaining applicable compliance certifications. Franchisee will defend, indemnify, and hold Franchisor harmless from and against all claims arising out of or relating to Franchisee’s violation of this Section 7.E.

F. Proprietary Items. Franchisee acknowledges and agrees that Franchisor may develop or acquire for use in the System certain products which are prepared from highly confidential secret recipes and which are trade secrets of Franchisor and/or its Affiliates. Because of the importance of quality and

uniformity of production and the significance of such products in the System, it is to the mutual benefit of the parties that Franchisor closely control the production and distribution of such products. Accordingly, Franchisee agrees that if such products become a part of the System, Franchisee shall use only Franchisor's secret recipe products and shall purchase, at a reasonable cost, solely from Franchisor or from a source designated by Franchisor all of Franchisee's requirements for such products. Franchisee agrees to purchase merchandise identifying the System (such as pre-packaged food products and Texas Roadhouse memorabilia bearing the Marks) only from Franchisor, or any supplier designated or approved by Franchisor. Franchisee further agrees to purchase said items identifying the System as Franchisor shall require, for resale, in amounts sufficient to satisfy Franchisee's customer demand.

G. Pricing. Franchisor reserves the right, to the fullest extent allowed by applicable law, to establish maximum, minimum or other pricing requirements with respect to the prices that Franchisee may charge for products or services.

H. Complaints; Claims; Safety, Health and Other Violations. Franchisee shall process and handle all consumer complaints connected with or relating to the Restaurant, and shall within twenty-four (24) hours, notify Franchisor by telephone and in writing of all of the following complaints: (i) food related illnesses, (ii) safety or health violations, (iii) claims exceeding One Thousand and 00/100 Dollars (\$1,000.00), and (iv) any other material claims against or losses suffered by Franchisee. Failure to notify Franchisor within the required time period is a material breach of this Agreement and may result in a fine or termination as determined by Franchisor in its sole discretion. Franchisee shall maintain for Franchisor's inspection any inspection reports affecting the Restaurant or equipment located in the Restaurant during the term of this Agreement and for thirty (30) days after the expiration or earlier termination hereof.

I. Vehicles. Any vehicle used by Franchisee in the operation of the Restaurant shall meet Franchisor's standards with respect to appearance and ability to satisfy the requirements imposed on Franchisee hereunder. Franchisee shall place such signs and decor items on the vehicle as Franchisor requires and shall at all times keep such vehicle clean and in good working order. Franchisee shall not engage or utilize any individual in the operation of a motor vehicle in connection with providing services hereunder who is under the age of eighteen (18) years or who does not possess a valid driver's license and insurance under the laws of the state in which Franchisee provides such services. Franchisee shall require each such individual to comply with all laws, regulations and rules of the road and to use due care and caution in the operation and maintenance of motor vehicles. Except as noted above, Franchisor does not set forth any standards or exercise control over any motor vehicle utilized by Franchisee.

J. Coupons, Certificates and Vouchers. Franchisee shall participate in, and comply with the requirements of, any gift card, gift certificate, customer loyalty or retention program that Franchisor implements, at Franchisee's expense, for all or part of the franchise system and shall sign the forms and take the other action that Franchisor requires in order for Franchisee to participate in such programs. Without limitation, Franchisee shall honor coupons, gift cards, gift certificates, or vouchers sold or distributed by other Texas Roadhouse locations and include the related proceeds in Royalty Sales, and will utilize a Franchisor approved vendor for gift card processing. Any coupon offer proposed by Franchisee must be approved by Franchisor pursuant to Section 8.G of this Agreement prior to being extended.

K. Liquidated Damages for Operational Violations. Franchisee acknowledges the importance of operating the Restaurant in accordance with the System, as modified from time to time. Franchisee further acknowledges that deviations from the requirements of the System, as specified in the Manuals, will damage Franchisor, the System and Franchisor's goodwill, which damage is difficult to quantify. Accordingly, the parties agree that in the event of deviations from the requirements of the Manuals, Franchisee shall, upon written notice from Franchisor, pay to Franchisor as liquidated and agreed upon damages for each violation in a calendar year, One Thousand and 00/100 Dollars (\$1,000.00). Liquidated damages under this Section 7.K shall be paid to Franchisor within five (5) days of receipt of notice from Franchisor. The imposition of liquidated damages pursuant to this Section 7.K shall be at Franchisor's

option. Franchisor is not required to impose liquidated damages under this Section 7.K and may, in addition to or in lieu thereof, pursue other remedies, including termination of this Agreement pursuant to Section 17. Payment to Franchisor of any amount provided for in this Section shall not constitute an election of remedies by Franchisor or an excuse for performance of Franchisee's obligations hereunder. If Franchisor imposes liquidated damages under this Section 7.L for any violation, Franchisor may thereafter terminate this Agreement pursuant to Section 17 for a subsequent violation.

## 8. MARKETING AND RELATED FEES

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

A. Participation in Marketing and Promotional Programs. Franchisor may from time to time develop and administer marketing and sales promotion programs designed to promote and enhance the collective success of all restaurants operating under the System. Franchisee shall participate in all such marketing and sales promotion programs in accordance with the terms and conditions established by Franchisor for each program. In all aspects of these programs, including, without limitation, the type, quantity, timing, placement and choice of media, market areas and marketing agencies, the standards and specifications established by Franchisor shall be final and binding upon Franchisee.

B. Local Marketing. In addition to the ongoing marketing contributions set forth herein and subject to any allocation of Franchisee's expenditures for local marketing to the Fund as described in Section 8.C or Cooperative as described in Section 8.D, Franchisee shall spend, during each month throughout the term of this Agreement, two percent (2%) of the Royalty Sales of the Restaurant on marketing for the Restaurant in its Area of Primary Responsibility ("**Local Marketing**"). Franchisee shall submit to Franchisor a marketing expenditure report accurately reflecting such expenditures at the same time as the report itemizing Royalty Sales described in Section 4.B(2). In addition to the restrictions set forth below, costs and expenditures incurred by Franchisee in connection with any of the following shall not be included in Franchisee's expenditures on Local marketing for purposes of this Section, unless approved by Franchisor in writing:

- (1) The cost of honoring any coupons;
- (2) Research expenditures;
- (3) Salaries and expenses of any employees of Franchisee, including salaries or expenses for attendance at marketing meetings or activities;
- (4) Charitable, political or other contributions or donations;
- (5) In-store materials consisting of fixtures or equipment;
- (6) Seminar and educational costs and expenses of employees of Franchisee; and
- (7) Specialty items such as T-shirts, premiums, pins and awards, unless such items are part of a market-wide marketing program and then only to the extent that the cost of such items is not recovered by the promotion.

C. Marketing Fund. Franchisor has established a marketing fund for the purpose of marketing the System on a local, regional or national basis (the "**Fund**" or "**Marketing Fund**"). Franchisee agrees to contribute a percentage of Royalty Sales each month to the Fund, to be reasonably determined and consistently applied by Franchisor, such contribution to be paid in the manner set forth in Section 4.B. If determined by Franchisor in its sole discretion, Franchisor may contract with any Affiliate and/or any third

party selected by Franchisor in its sole discretion to provide marketing services on behalf of Franchisor in accordance with the terms and conditions of this Agreement. During the term of this Agreement, Franchisor may, in its sole discretion, review and modify the amount of the continuing marketing contribution up to two and one-half percent (2.5%) of the Royalty Sales of the Restaurant for each month and Franchisee agrees to contribute any such additional amount to the Fund. In reviewing and modifying the marketing contribution, Franchisor shall consider the level of marketing expenditures by Texas Roadhouse Restaurants operated by Franchisor or its Affiliates and by competitors of the System, media costs, available marketing resources, population changes, changes in market conditions, the degree of market penetration of the System, and such other factors as Franchisor deems relevant to the operation of the Fund. Franchisee shall be provided with thirty (30) days prior written notice of any such change in the marketing contribution. Franchisor may also require Franchisee to allocate to the Fund, all or any portion of Franchisee's required expenditures for Local Marketing as described in Section 8.B. or contributions to a Cooperative as described in Section 8.D. Notwithstanding the above, Franchisee's payment of its Fund contribution shall be applied toward Franchisee's Local Marketing or Cooperative requirement set forth in Section 8.B. Franchisee agrees that the Fund shall be maintained and administered by Franchisor or its designee as follows:

(1) Franchisor shall direct all marketing programs and shall have sole discretion to approve or disapprove the creative concepts, materials and media used in such programs and the placement and allocation thereof. Franchisee agrees and acknowledges that the Fund is intended to maximize general public recognition and acceptance of the Marks and enhance the collective success of all restaurants operating under the System. Franchisor shall, with respect to Texas Roadhouse Restaurants operated by Franchisor or any Affiliate, contribute to the Fund generally on the same basis as Franchisee. In administering the Fund, Franchisor and its designees undertake no obligation to make expenditures for Franchisee which are equivalent or proportionate to Franchisee's contribution or to ensure that any particular Franchisee benefits directly or pro rata from the placement of marketing.

(2) Franchisee agrees that the Fund may be used to satisfy any and all costs of maintaining, administering, directing and preparing marketing including, without limitation, the cost of preparing and conducting television, radio, magazine and newspaper marketing campaigns; direct mail and outdoor billboard marketing; public relations activities; engaging advertising and marketing agencies and advisors; developing and maintaining an Internet website, social media programs and search engine optimization; preparing and conducting customer surveys, interviews and other programs designed to maintain customer service standards; and personnel and other departmental costs for advertising that Franchisor internally administers or prepares. All sums paid by Franchisee to the Fund shall not be used to defray any of Franchisor's general operating expenses, except for such reasonable administrative costs and overhead, if any, as Franchisor may incur in activities reasonably related to the administration or direction of the Fund and marketing programs for Franchisees and the System. The Fund and its earnings shall not otherwise inure to the benefit of Franchisor. The Fund is operated solely as a conduit for collecting and expending the marketing contributions as outlined above.

(3) Franchisor may spend, on behalf of the Fund, in any fiscal year an amount greater or less than the aggregate contribution of all Restaurants to the Fund in that year, and the Fund may borrow from Franchisor or others at reasonable rates of interest to cover deficits or invest any surplus for future use. A statement of the operations of the Fund shall be prepared annually by Franchisor and shall be made available to Franchisee upon request.

(4) Franchisor reserves the right, upon thirty (30) days' prior written notice to Franchisee, to defer, increase (subject to the maximum level permitted herein), reduce or suspend contributions to (and, if suspended, deferred or reduced, to reinstate such contributions) and to suspend operations of, the Fund for one or more periods of any length and to terminate (and, if terminated, to reinstate) the Fund. If the Fund is terminated, all unspent monies on the date of termination will be distributed to the contributors to the Fund without interest in proportion to their respective contributions to the Fund during the preceding twelve (12) month period.



D. Marketing Cooperatives. Franchisee agrees that Franchisor shall have the right, in its sole discretion, to designate any geographic area in which two (2) or more Texas Roadhouse Restaurants are located as a region for purposes of establishing a marketing cooperative (the “*Cooperative*”). The members of the Cooperative for any area shall, at a minimum, consist of all full-service Texas Roadhouse Restaurants. Each Cooperative shall be organized and governed in a form and manner, and shall commence operation on a date, determined in advance by Franchisor in its sole discretion. Each Cooperative shall be organized for the exclusive purposes of administering marketing programs and developing, subject to Franchisor’s approval pursuant to Section 8.G, promotional materials for use by the members in Local Marketing. If at the time of the execution of this Agreement a Cooperative has been established for a geographic area that encompasses the Restaurant, or if any such Cooperative is established during the term of this Agreement, Franchisee shall execute such documents as are required by Franchisor immediately upon the request of Franchisor and shall become a member of the Cooperative pursuant to the terms of those documents. Franchisee shall participate in the Cooperative as follows:

(1) Subject to any allocation of Franchisee’s Cooperative contribution to the Fund as described in Section 8.C, Franchisor may require, in its sole discretion, Franchisee to contribute to the Cooperative the amounts required by the documents governing the Cooperative; provided that Franchisee will not be required to contribute more than two percent (2%) of Royalty Sales during each month to the Cooperative unless, subject to Franchisor’s approval, the members of the Cooperative agree to the payment of a larger fee. Notwithstanding the above, the payment of any Franchisor-required Cooperative contribution shall be applied toward satisfaction of Franchisee’s Local Marketing requirement set forth in Section 8.B;

(2) Franchisee shall submit to the Cooperative and to Franchisor such statements and reports as may be required by Franchisor or by the Cooperative. All contributions to the Cooperative shall be maintained and administered in accordance with the documents governing the Cooperative. The Cooperative shall be operated solely as a conduit for the collection and expenditure of the Cooperative fees for the purposes outlined above; and

(3) No marketing or promotional plans or materials may be used by the Cooperative or furnished to its members without the prior approval of Franchisor. All such plans and materials shall be submitted to Franchisor in accordance with the procedure set forth in Section 8.G.

E. Marketing Fee. In addition to the marketing expenditures and contributions set forth above, Franchisee agrees to pay, and to continue to pay at all times thereafter during the term of this Agreement, an additional one-half percent (0.5%) of Royalty Sales for each month to Franchisor as a marketing fee for market research and for promotional and marketing materials provided by Franchisor to Franchisee, such fee to be paid in the manner set forth in Section 4.B.

F. Maximum Required Marketing. The total required marketing contributions or payments by Franchisee under this Section 8 (i) to such Fund, (ii) to such a Cooperative, (iii) for Local Marketing, and (iv) to Franchisor under Section 8.D, shall not exceed three percent (3%) of Royalty Sales.

G. Marketing Approval. All marketing materials and promotion by Franchisee (including Internet marketing, web pages and social media, if permitted) in any medium shall be conducted in a dignified manner and shall conform to the standards and requirements of Franchisor as set forth in the Manuals or otherwise. Franchisee shall obtain Franchisor’s approval of all marketing materials, promotional plans and materials, and coupon offers prior to use if such plans and materials have not been prepared by Franchisor or previously approved by Franchisor during the twelve (12) months prior to their proposed use. Franchisee shall submit such unapproved plans and materials to Franchisor, and Franchisor shall approve or disapprove such plans and materials within fourteen (14) days of Franchisor’s receipt thereof. Franchisor’s failure to respond within the fourteen (14) day period shall be deemed to be its disapproval of such plans or materials. Franchisee shall not use such unapproved plans or materials until

they have been approved by Franchisor, and shall promptly discontinue use of any marketing or promotional plans or materials, whether or not previously approved, upon notice from Franchisor.

H. Internet Restrictions.

(1) Franchisee shall establish and maintain Internet access in accordance with System Standards and shall use the email address assigned to it by Franchisor for all business communications. Franchisee shall not advertise, promote, post or list information relating to the Restaurant on the Internet (including, but not limited to, Facebook, Pinterest, Twitter, LinkedIn or any blog or other social media sites), through the creation or use of a website or otherwise, except in accordance with this Section 8.G.

(2) Franchisee shall not use the Marks or any abbreviation or other name associated with the System as part of any e-mail address, domain name, or other identification of Franchisee in any electronic medium, without Franchisor's express prior written consent. Without limitation of the foregoing, Franchisee agrees not to register any Internet domain name in any class or category that contains words used in or similar to any trade name, trademark or service mark owned by Franchisor or its Affiliates or any abbreviation, acronym, phonetic variation or visual variation of those words. Franchisee agrees not to transmit or cause any other party to transmit advertisements or solicitations by e-mail or other electronic media without first obtaining Franchisor's written consent. Franchisee shall be solely responsible for compliance with any laws pertaining to e-mail communications, including, without limitation, the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (the "*CAN-SPAM Act of 2003*").

(3) Franchisee agrees not to link any URL related to Franchisor or its Affiliates to any other site without the express prior written consent of Franchisor, which may be granted or withheld in Franchisor's sole discretion.

(4) Franchisor has established a website that provides information about Texas Roadhouse Restaurants. Franchisor has sole discretion and control over such website, including timing, design, contents and continuation. Franchisor may use part of the Marketing Fund contributions it collects under this Agreement to pay or reimburse the costs associated with the development, maintenance and update of such website. Franchisor may (but is not required to) include an interior page at such website containing information about the Restaurant ("*Franchisee's Webpage*") and in such event Franchisor may require Franchisee to prepare all or a portion of Franchisee's webpage, at Franchisee's expense, using a template that Franchisor provides. All information will be subject to Franchisor's approval prior to posting.

(5) Franchisor also shall have the sole right (but no obligation) to develop an Intranet through which Franchisor and its franchisees can communicate by e-mail or similar electronic means. If Franchisor develops such an Intranet, Franchisee agrees to use the facilities of the Intranet in strict compliance with the standards, protocols and restrictions that Franchisor includes in the Manual (including, without limitation, standards, protocols and restrictions relating to the encryption of confidential information and prohibitions against the transmission of libelous, derogatory or defamatory statements).

9. MARKS

A. License to Use the Marks. Franchisor grants Franchisee the right to use the Marks during the term of this Agreement in accordance with the System and related standards and specifications.

B. Agreements Regarding the Marks. Franchisee expressly understands and acknowledges that:

(1) As between Franchisor and Franchisee, Franchisor is the owner of all right, title and interest in and to the Marks and the goodwill associated with and symbolized by them.

(2) Neither Franchisee nor any Controlling Principal shall take any action that would prejudice or interfere with the validity of Franchisor's or its Affiliate's rights with respect to the Marks. Nothing in this Agreement shall give Franchisee any right, title, or interest in or to any of the Marks or any of Franchisor's or its Affiliate's service marks, trademarks, trade names, trade dress, logos, copyrights or proprietary materials, except the right to use the Marks and the System in accordance with the terms and conditions of this Agreement for the operation of the Restaurant and only at or from its Approved Location or in approved marketing materials related to the Restaurant.

(3) Franchisee understands and agrees that any and all goodwill arising from Franchisee's use of the Marks and the System shall inure solely and exclusively to Franchisor's or its Affiliate's benefit, and upon expiration or termination of this Agreement and the license herein granted, no monetary amount shall be assigned as attributable to any goodwill associated with Franchisee's use of the Marks.

(4) Neither Franchisee nor any Controlling Principal shall contest the validity of Franchisor's or any Affiliate's interest in the Marks or assist others to contest the validity of Franchisor's or any Affiliate's interest in the Marks.

(5) Franchisee acknowledges that any unauthorized use of the Marks shall constitute an infringement of Franchisor's or its Affiliate's rights in the Marks and a material event of default hereunder. Franchisee agrees that it shall provide Franchisor with all assignments, affidavits, documents, information and assistance Franchisor reasonably requests to fully vest in Franchisor or its Affiliate all such rights, title and interest in and to the Marks, including all such items as are reasonably requested by Franchisor to register, maintain and enforce such rights in the Marks.

(6) Franchisor reserves the right to substitute different Marks for use in identifying the System and the Restaurant if the current Marks no longer can be used, or if Franchisor, in its sole discretion, determines that substitution of different Marks will be beneficial to the System. In such event, Franchisor may require Franchisee, at Franchisee's expense, to discontinue or modify Franchisee's use of any of the Marks or to use one or more additional or substitute Marks.

C. Use of the Marks. With respect to Franchisee's licensed use of the Marks pursuant to this Agreement, Franchisee further agrees that:

(1) Unless otherwise authorized or required by Franchisor, Franchisee shall operate and market the Restaurant only under the name "**Texas Roadhouse**" without prefix or suffix. *Franchisee shall not use the Marks as part of its corporate or other legal name.*

(2) If Franchisee uses the Marks, or any part of the Marks, in its corporate name, immediately upon notice by Franchisor, Franchisee shall change its corporate name. Such name must comply with the requirements set forth herein. Franchisee shall be solely responsible for all expenses it incurs in making such change. Further, during the term of this Agreement and any renewal hereof, Franchisee shall use its corporate name to identify itself as the independent owner and operator of the Restaurant and as a franchisee of Franchisor in conjunction with any use of the Marks, including, but not limited to, uses on invoices, order forms, payroll checks, receipts and contracts, as well as the display of a notice in such content and form and at such conspicuous locations on the premises of the Restaurant or any Restaurant catering or delivery vehicle as Franchisor may designate in writing.

(3) Franchisee shall not use the Marks to incur any obligation or indebtedness on behalf of Franchisor or its Affiliates.

(4) Franchisee shall comply with Franchisor's instructions in filing and maintaining the requisite trade name or fictitious name registrations, and shall execute any documents deemed necessary

by Franchisor or its counsel to obtain protection of the Marks or to maintain their continued validity and enforceability.

(5) All marketing and promotional materials (including Internet marketing, web pages and social media), billboards, signs, decorations, paper goods (including menus and all forms and stationery used in the franchised business), employee uniforms, apparel, memorabilia and mementos intended for retail sale, and other items which may be designated by Franchisor shall bear the Marks in the form, color, location and manner prescribed by Franchisor.

D. Infringement. Franchisee shall notify Franchisor immediately of any apparent infringement of or challenge to Franchisee's use of any Mark, of any claim by any person of any rights in any Mark, and Franchisee and the Controlling Principals shall not communicate with any person other than Franchisor or any designated Affiliate thereof, their counsel and Franchisee's counsel in connection with any such infringement, challenge or claim. Franchisor or its Affiliates shall have complete discretion to take such action as it deems appropriate in connection with the foregoing, and the right to control exclusively, or to delegate control to any of its Affiliates of, any settlement, litigation or Patent and Trademark Office or other proceeding arising out of any such alleged infringement, challenge or claim or otherwise relating to any Mark. Franchisee agrees to execute any and all instruments and documents, render such assistance, and do such acts or things as may, in the opinion of Franchisor, reasonably be necessary or advisable to protect and maintain the interests of Franchisor or any Affiliate in any litigation or other proceeding or to otherwise protect and maintain the interests of Franchisor or any other interested party in the Marks. The parties hereto acknowledge that Franchisor shall have no obligation to protect Franchisee's rights to use the Marks or to protect Franchisee against claims of infringement or unfair competition.

E. Scope of License. The right and license of the Marks granted hereunder to Franchisee is nonexclusive and Franchisor and its Affiliates thus have and retain the following rights, among others, subject only to the limitations of Section 1:

- (1) To grant other licenses for use of the Marks;
- (2) To develop and establish other systems using the Marks or other names or marks and to grant licenses thereto without providing any rights to Franchisee; and
- (3) To engage, directly or indirectly, through its employees, representatives, licensees, assigns, agents and others, at wholesale, retail or otherwise, in (1) the production, distribution, license and sale of products and services, and (2) the use in connection with such production, distribution and sale, of the Marks and any and all trademarks, trade names, service marks, logos, insignia, slogans, emblems, symbols, designs and other identifying characteristics as may be developed or used from time to time by Franchisor.

## 10. CONFIDENTIALITY AND NONCOMPETITION COVENANTS

### A. Manuals.

(1) To protect the reputation and goodwill of Franchisor and to maintain high standards of operation under Franchisor's Marks, Franchisee shall conduct its business in accordance with the Manuals, other written directives which Franchisor may issue to Franchisee from time to time whether or not such directives are included in the Manuals, and any other manuals and materials created or approved for use in the operation of Texas Roadhouse Restaurants, all of which shall supplement this Agreement.

(2) The Manuals form a part of Franchisor's Confidential Information and the Controlling Principals shall at all times treat the Manuals, and the information contained therein, as confidential and secret in accordance with this Section 10.A and Section 10.B below, Franchisee and the

Controlling Principals shall not at any time copy, duplicate, record or otherwise reproduce these materials, in whole or in part, or otherwise make the same available to any unauthorized person.

(3) The Manuals and any other confidential communications provided or approved by Franchisor shall at all times remain the sole property of Franchisor, shall at all times be kept in a secure place, and shall be returned to Franchisor immediately upon request or upon termination or expiration of this Agreement.

(4) Franchisor may from time to time revise the contents of the Manuals and the contents of any other manuals and materials created or approved for use in the operation of the franchised business. *Franchisee expressly agrees to comply with each new or changed standard.*

(5) Franchisee shall at all times ensure that the Manuals are kept current and up to date. In the event of any dispute as to the contents of the Manuals, the terms of the master copy of the Manuals maintained by Franchisor shall control.

B. Confidentiality. Neither Franchisee nor any Principal shall, during the term of this Agreement or thereafter, communicate, divulge or use for the benefit of any other person, persons, partnership, association or corporation and, following the expiration or termination of this Agreement, they shall not use for their own benefit, any Confidential Information, knowledge or know-how concerning the methods of operation of Texas Roadhouse Restaurants which may be communicated to them or of which they may be apprised in connection with the operation of the Restaurant under the terms of this Agreement. Franchisee and the Controlling Principals shall divulge such Confidential Information only to such of Franchisee's employees as must have access to it in order to operate the Restaurant. Neither Franchisee nor the Controlling Principals shall at any time, without Franchisor's prior written consent, copy, duplicate, record or otherwise reproduce any Confidential Information, in whole or in part, nor otherwise make the same available to any unauthorized person. The covenant in this Section shall survive the expiration, termination or transfer of this Agreement or any interest herein and shall be perpetually binding.

C. Work Product. If Franchisee, its Principals, or its employees develop any new concept, process, recipe, menu item, improvement, invention, or work of authorship in the operation or promotion of the Restaurant, alone or jointly with others and within or without the facilities of the Restaurant, before, during or after normal business hours ("**Work Product**") Franchisee shall promptly notify Franchisor and provide Franchisor with all necessary related information, without compensation. Franchisee and the Controlling Principals acknowledge that any such Work Product will inure to the benefit of and become the property of Franchisor, and Franchisor may use or disclose such Work Product to other Franchisees and to its Affiliates, successors and assigns, as it determines to be appropriate. Franchisee and the Controlling Principals shall execute in favor of Franchisor an assignment of (and Franchisee and the Controlling Principals do hereby assign) their entire right, title, and interest in and to the Work Product and agree to execute such other documents and instruments as Franchisor may request. Franchisee and the Controlling Principals further agree to cooperate to the extent and in the manner reasonably requested by Franchisor in the prosecution or defense of any litigation or other proceedings involving any Work Product, but all of their reasonable expenses in connection therewith shall be paid by Franchisor. If a copyright registration or patent is filed by Franchisee, its Principals or employees, or on their behalf, within one (1) year following the earlier of the termination or expiration of this Agreement or the time at which such person ceases to be associated with Franchisee, describing a work which relates to the business of Franchisor, it will be conclusively presumed that such work is to be treated as a Work Product for all purposes hereunder.

D. Noncompetition Covenants.

(1) Franchisee and the Controlling Principals specifically acknowledge that, pursuant to this Agreement, Franchisee and the Controlling Principals will receive valuable training, trade secrets and Confidential Information, including, without limitation, information regarding the operational, sales,

promotional and marketing methods and techniques of Franchisor and the System, which are beyond the present skills and experience of Franchisee and the Controlling Principals and Franchisee's Managers and employees. Franchisee and the Controlling Principals acknowledge that such specialized training, trade secrets and Confidential Information provide a competitive advantage and will be valuable to them in the development and operation of the Restaurant, and that gaining access to such specialized training, trade secrets and Confidential Information is, therefore, a primary reason for entering into this Agreement. In consideration for such specialized training, trade secrets, Confidential Information and rights, Franchisee and the Controlling Principals covenant that with respect to Franchisee, during the term of this Agreement (or with respect to each of the Controlling Principals, during the term of this Agreement for so long as such individual or entity satisfies the definition of "**Controlling Principals**"), except as otherwise approved in writing by Franchisor, neither Franchisee nor any of the Controlling Principals shall, either directly or indirectly, for themselves or through, on behalf of or in conjunction with any person(s), partnership or corporation:

(a) Divert, or attempt to divert, any business or customer of the franchised business hereunder to any Competitive Business within the trade area of any current or proposed Texas Roadhouse, by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the System.

(b) Own, maintain, operate, engage in, or have any financial or beneficial interest in (including any interest in corporations, partnerships, trusts, unincorporated associations or joint ventures), advise, assist or make loans to, any Competitive Business located within (i) the United States, (ii) United States territories or commonwealths, or (iii) any other country, province, state or geographic area in which Franchisor has used, sought registration of or registered the same or similar Marks or operates or licenses others to operate a business under the same or similar Marks.

(2) With respect to Franchisee, and for a continuous uninterrupted period commencing upon the expiration, termination, or transfer of all of Franchisee's interest in this Agreement (or, with respect to each of the Controlling Principals, commencing upon the earlier of: (i) the expiration, termination, or transfer of all of Franchisee's interest in this Agreement, or (ii) the time such individual or entity ceases to satisfy the definition of "**Controlling Principals**" and continuing for two (2) years thereafter, except as otherwise approved in writing by Franchisor, neither Franchisee, nor any of the Controlling Principals shall, directly or indirectly, for themselves, or through, on behalf of or in conjunction with any person, persons, partnership, or corporation:

(a) Divert, or attempt to divert, any business or customer of the franchised business hereunder to any Competitive Business within the same trade area of any current or proposed Texas Roadhouse Restaurant, by direct or indirect inducement or otherwise, or do or perform, directly or indirectly, any other act injurious or prejudicial to the goodwill associated with the Marks and the System.

(b) Employ, or seek to employ, any person who is at that time or was within the preceding twelve (12) months employed by Franchisor or by any other Franchisee or developer of Franchisor, or otherwise directly or indirectly induce such person to leave that person's employment, except as may be permitted under any existing development agreement or Franchise Agreement between Franchisor and Franchisee.

(c) Own, maintain, operate, engage in, or have any financial or beneficial interest in (including any interest in corporations, partnerships, trusts, unincorporated associations or joint ventures), advise, assist or make loans to, any Competitive Business that is, or is intended to be located (i) at the Approved Location, (ii) within the Assigned Area, or (iii) within a ten (10)-mile radius of any Texas Roadhouse Restaurant or other Texas Roadhouse facility in existence or under construction at any given time during such period.

(3) The parties acknowledge and agree that each of the covenants contained herein contain reasonable limitations as to time, geographical area, and scope of activity to be restrained and do not impose a greater restraint than is necessary to protect the goodwill or other business interests of Franchisor. The parties agree that each of the covenants herein shall be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant in this Section is held unreasonable or unenforceable by a court or agency having valid jurisdiction in an unappealed final decision to which Franchisor is a party, Franchisee and the Controlling Principals expressly agree to be bound by any lesser covenant subsumed within the terms of such covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated in and made a part of this Section. The time period relating to the obligations set forth in this Section 10 will be tolled for any period of noncompliance.

(a) Franchisee and the Controlling Principals understand and acknowledge that Franchisor shall have the right, in its sole discretion, to reduce the scope of any covenant set forth in this Section 10.C in this Agreement, or any portion thereof, without their consent, effective immediately upon notice to Franchisee; and Franchisee and the Controlling Principals agree that they shall comply forthwith with any covenant as so modified, which shall be fully enforceable notwithstanding the provisions of Section 19.B hereof.

(b) Franchisee and the Controlling Principals expressly agree that the existence of any claims they may have against Franchisor, whether or not arising from this Agreement, shall not constitute a defense to the enforcement by Franchisor of the covenants in this Section.

E. Injunctive Relief. Franchisee and the Controlling Principals acknowledge that any failure to comply with the requirements of this Section 10 shall constitute a material event of default under Section 17 hereof. Franchisee and the Controlling Principals acknowledge that a violation of the terms of this Section would result in irreparable injury to Franchisor for which no adequate remedy at law may be available, and Franchisee and the Controlling Principals accordingly consent to the issuance of an injunction prohibiting any conduct by Franchisee or the Controlling Principals in violation of the terms of this Section. Franchisee and the Controlling Principals agree to pay all court costs and reasonable attorneys' fees incurred by Franchisor in connection with the enforcement of this Section, including payment of all costs and expenses for obtaining specific performance of, or an injunction against violation of, the requirements of such Section.

F. Execution of Similar Covenants by Others. Unless otherwise agreed in writing by Franchisor, Franchisee shall require and obtain execution of covenants similar to those set forth in this Section 10 from any Managing Partner who is not otherwise a Controlling Principal. In addition, at Franchisor's request, Franchisee shall require and obtain execution of such covenants from its other Managers and any other personnel of Franchisee who have received or will have access to training or other Confidential Information. Such covenants shall be substantially in the form set forth in Attachment D. All of Franchisee's Principals also must execute such covenants. Notwithstanding the foregoing, Franchisor reserves the right, in its sole discretion, to decrease the period of time or geographic scope of the noncompetition covenant set forth in Attachment D or eliminate such noncompetition covenant altogether for any party that is required to execute such agreement under this Section 10.F.

## 11. BOOKS AND RECORDS

A. Maintenance Requirement. Franchisee shall maintain during the term of this Agreement, and shall preserve for at least five (5) years from the dates of their preparation, full, complete and accurate books, records and accounts, including, but not limited to, sales reports, purchase orders, payroll records, check stubs, bank statements, sales tax records and returns, cash receipts and disbursements, journals and ledgers. The foregoing shall be maintained in the form and manner prescribed by Franchisor from time to time in the Manual or otherwise in writing (which requirements may include, in Franchisor's discretion, common fiscal year end and fiscal period designations) and in accordance with generally accepted accounting principles ("**GAAP**").

B. Reporting. In addition to the remittance reports required by Sections 4 and 8 hereof, Franchisee shall comply with the following reporting obligations:

(1) Franchisee shall, at Franchisee's expense, submit to Franchisor, in the form prescribed by Franchisor, a balance sheet and profit and loss statement for each month (which may be unaudited) for Franchisee on or before the twentieth (20th) day of the following month during the term hereof. Each such statement shall be signed by Franchisee's treasurer or chief financial officer or comparable officer attesting that it is true, complete and correct.

(2) Franchisee shall, at Franchisee's expense, submit to Franchisor, in the form prescribed by Franchisor, a balance sheet and profit and loss statement for each quarter (which may be unaudited) for Franchisee on or before the thirtieth (30th) day of the month following the end of each quarter during the term of this Agreement. Each such statement shall be signed by Franchisee's treasurer or chief financial officer or comparable officer attesting that it is true, complete and correct.

(3) Franchisee shall, at its expense, provide to Franchisor a complete annual audited financial statement (including balance sheet, statement of operations, statement of cash flows and statement of stockholders' equity) for Franchisee, prepared in accordance with GAAP and as prescribed by Franchisor from time to time in the Manuals or otherwise in writing, audited by an independent certified public accountant satisfactory to Franchisor, within ninety (90) days after the end of each fiscal year of Franchisee during the term hereof, showing the results of operations of Franchisee during such fiscal year.

(4) Franchisee shall also submit to Franchisor, for review or auditing, such other forms, reports, records, information and data as Franchisor may reasonably designate, in the form and manner and at the times and places reasonably required by Franchisor, upon request and as specified from time to time in writing.

(5) Franchisee acknowledges the importance of the financial and other reporting requirements set forth herein and that deviations from these requirements will damage Franchisor and the System. Franchisee further acknowledges that such damage is difficult to quantify. Accordingly, the parties agree that if any statement or other report referred to herein is more than thirty (30) days past due, Franchisee shall pay to Franchisor as liquidated and agreed upon damages for each such violation the sum of Two Hundred and 00/100 Dollars (\$200.00). Liquidated damages under this Section 11.B(5) shall be paid to Franchisor within five (5) days following Franchisee's receipt of notice from Franchisor. The imposition of liquidated damages pursuant to this Section 11.B(5) shall be at Franchisor's option. Franchisor is not required to impose liquidated damages under this Section 11.B(5) and may, in addition to or in lieu thereof, pursue other remedies to which Franchisor may be entitled under this Agreement or at law. Payment to Franchisor of any amount provided for in this Section shall not constitute an election of remedies by Franchisor or an excuse for performance of Franchisee's obligations hereunder.

C. Audits. Franchisor or its designees shall have the right at all reasonable times to review, audit, examine and copy the books and records of Franchisee as Franchisor may require at the Restaurant.



If any required royalty payments to Franchisor are delinquent, or if an inspection should reveal that such payments have been understated in any report to Franchisor, then Franchisee shall immediately pay to Franchisor the amount overdue or understated upon demand with interest determined in accordance with the provisions of Section 4.B(3). If an inspection discloses an understatement in any report of two percent (2%) or more, Franchisee shall, in addition, reimburse Franchisor for all costs and expenses connected with the inspection (including, without limitation, reasonable accounting and attorneys' fees). These remedies shall be in addition to any other remedies Franchisor may have at law or in equity.

D. No Waiver. Franchisee understands and agrees that the receipt or acceptance by Franchisor of any of the statements furnished or royalties paid to Franchisor (or the cashing of any royalty checks) shall not preclude Franchisor from questioning the correctness thereof at any time and, in the event that any inconsistencies or mistakes are discovered in such statements or payments, they shall immediately be rectified by Franchisee and the appropriate payment shall be made by Franchisee.

E. Authorization to Release Information. Franchisee hereby authorizes (and agrees to execute any other documents deemed necessary to effect such authorization) all banks, financial institutions, businesses, suppliers, manufacturers, contractors, vendors and other persons or entities with which Franchisee does business to disclose to Franchisor any requested financial information in their possession relating to Franchisee or the Restaurant. Franchisee authorizes Franchisor to disclose data from Franchisee's reports, if Franchisor determines, in its sole discretion, that such disclosure is necessary or advisable, which disclosure may include disclosure to prospective or existing Franchisees or other third parties.

## 12. INSURANCE

A. Requirement to Obtain and Maintain Insurance. Franchisee shall procure, upon execution of this Agreement, and shall maintain in full force and effect at all times during the term of this Agreement at Franchisee's expense, an insurance policy or policies protecting Franchisee and Franchisor and Texas Roadhouse Holdings LLC and their parent, Affiliates, successors and assigns, their respective officers, directors, shareholders, partners, members, agents, representatives, independent contractors and employees of each of them against any demand or claim with respect to personal injury, death or property damage, or any loss, liability or expense whatsoever arising or occurring upon or in connection with the Restaurant.

B. Coverage Requirements. All insurance must be placed with an insurance company with an A.M. Best & Co., Inc. rating of "A-/V". All policies, except Worker's Compensation, must name Franchisor and Texas Roadhouse Holdings LLC and their parent, Affiliates, successors and assigns, their respective officers, directors, shareholders, partners, members, agents, representatives, independent contractors and employees of each of them as additional insureds and must include a waiver of subrogation in favor of all parties. The policies shall provide the amount of coverage for each category of risk that is specified from time to time in the Manuals. Until otherwise specified in the Manuals, coverage against the risks and in the amounts stated in the following subsections:

(1) Liability Insurance:

(a) Commercial General Liability Insurance with a combined single limit of Two Million and 00/100 Dollars (\$2,000,000.00) for Bodily Injury and Property Damage Per Occurrence/ Three Million and 00/100 Dollars (\$3,000,000.00) Aggregate. Standard coverages must include: Bodily Injury, Personal Injury (including Libel, Slander, Defamation of Character), Product Liability, Property Damage, Contractual Liability, Host Liquor Liability, Special Events, Advertiser's Liability, Mental Anguish, Non-owned and Hired Auto Liability (if not covered under commercial automobile policy), Incidental Malpractice, and Fire Damage Liability.

(b) Liquor Liability (Dram shop) Insurance with a combined single limit of Two Million and 00/100 Dollars (\$2,000,000.00) Per Occurrence/ Three Million and 00/100 Dollars (\$3,000,000.00) Aggregate.

(c) Employee Benefits Liability at a minimum of Three Hundred Thousand and 00/100 Dollars (\$300,000.00) Per Occurrence/ Three Hundred Thousand and 00/100 Dollars (\$300,000.00) Aggregate. Coverage shall be written on claims made form with appropriate retroactive date.

(d) Stop Gap Liability – required if any locations are in the following states or territory: Nevada, North Dakota, Ohio, Washington, Wyoming and any state where the state fund does not provide Workers’ Compensation Part B.

(2) Property Insurance: Special Form policy of insurance, including flood and earthquake coverage upon the premises (if the premises are located in a flood plain or earthquake zone), operational equipment, signs, furnishings, décor and supplies in an amount adequate to replace the property covered.

(3) Umbrella Liability Insurance: Ten Million and 00/100 Dollars (\$10,000,000.00) over the basic Comprehensive General Liability Insurance, employee benefits liability if purchased and Liquor Liability, and Ten Million and 00/100 Dollars (\$10,000,000.00) for Products/Completed Operations Aggregate and Ten Million and 00/100 Dollars (\$10,000,000.00) for employers’ liability insurance. For any insurance policy covering more than three (3) locations, the General Aggregate coverage shall be increased by \$1,000,000 for each Restaurant in excess of three (3) Restaurants. If any policy covers nine (9) or more Restaurants, the General Aggregate coverage shall be increased to a minimum of Fifteen Million and 00/100 Dollars (\$15,000,000.00).

(4) Automobile Liability, including Non-owned and Hired Auto Liability, with a combined single limit of One Million and 00/100 Dollars (\$1,000,000.00) for Bodily Injury and Property Damage for any one (1) accident.

(5) Employment Practices Liability Coverage: One Million and 00/100 Dollars (\$1,000,000.00) per claim and aggregate for one (1) to three (3) common-owned Restaurants and Two Million and 00/100 Dollars (\$2,000,000.00) policy per claim and aggregate for four (4) or more common-owned Restaurants. All EPL policies must include third party coverage (i.e., third party discrimination). As used herein, the term “*Common-owned*” means all Restaurants owned by Franchisee and its Affiliates.

(6) Business Income (Interruption) Coverage in an amount sufficient to cover profit margins, royalty payments equal to the average monthly royalty payment during a comparable six (6)-month period preceding the event causing the interruption (or for any shorter period that the Restaurant has been open for business immediately preceding the event if a comparable six (6) month history is not available), maintenance of competent and desirable personnel and fixed expenses for a period of at least one hundred eighty (180) days. Such business income coverage shall be maintained at levels sufficient to reimburse Franchisee for all direct and indirect loss of income and charges and costs arising out of all named perils insured against by Franchisee’s policies of property insurance, including, but not limited to, prevention of, or denial of use of or access to, all or part of the premises.

(7) Worker’s compensation insurance in amounts provided by or permitted under applicable law.

(8) Cyber Coverage with a single limit of One Million and 00/100 Dollars (\$1,000,000.00).

(9) Cyber Notifications Coverage: One Hundred Thousand (100,000) notifications.

(10) Such other insurance as may be required by the state or locality in which the Restaurant is located.

C. Deductibles; Waiver of Subrogation. Franchisee may, with the prior written consent of Franchisor, elect to have reasonable deductibles in connection with the coverage required under Section 12.B. Such policies (including all Employment Practices Liability policies) shall also include a waiver of subrogation in favor of Franchisor and Texas Roadhouse Holdings LLC, their parent, Affiliates, successors and assigns, their respective officers, directors, shareholders, partners, members, agents, representatives, independent contractors, servants and employees of each of them.

D. Builder's Risks/Installation Insurance. In connection with any construction, renovation, refurbishment or remodeling of the Restaurant, Franchisee shall maintain Builder's Risks/Installation insurance in forms and amounts, and written by a carrier or carriers, reasonably satisfactory to Franchisor.

E. No Limitations. Franchisee's obligation to obtain and maintain the foregoing policy or policies in the amounts specified shall not be limited in any way by reason of any insurance which may be maintained by Franchisor, nor shall Franchisee's performance of that obligation relieve it of liability under the indemnity provisions set forth in Section 15 of this Agreement.

F. Additional Insureds. All insurance policies required hereunder (including all Employment Practices Liability policies but with the exception of workers' compensation insurance), shall name Franchisor and Texas Roadhouse Holdings LLC and their parent, Affiliates, successors and assigns, and the respective officers, directors, shareholders, partners, members, agents, representatives, independent contractors and employees of each of them as additional insureds, and shall expressly provide that their interest shall not be affected by Franchisee's breach of any policy provisions. All public liability and property damage policies shall contain a provision that Franchisor and Texas Roadhouse Holdings LLC and their parent, Affiliates, successors and assigns, and the respective officers, directors, shareholders, partners, members, agents, representatives, independent contractors and employees of each of them, although named as insureds, shall nevertheless be entitled to recover under such policies on any loss occasioned to them by reason of the negligence of Franchisee or its servants, agents or employees.

G. Certificates of Insurance. Upon execution of this Agreement, and thereafter in accordance with Section 4 hereof and thirty (30) days prior to the expiration of any such policy, Franchisee shall deliver to Franchisor Certificates of Insurance evidencing the existence and continuation of proper coverage with limits not less than those required hereunder. In addition, if requested by Franchisor, Franchisee shall deliver to Franchisor a copy of the insurance policy or policies required hereunder. Further, all insurance policies required hereunder shall expressly provide that no less than thirty (30) days' prior written notice shall be given to Franchisor in the event of a material alteration to or cancellation of the policies.

H. Remedies. Should Franchisee, for any reason, fail to procure or maintain the insurance required by this Agreement, as such requirements may be revised from time to time by Franchisor in writing, Franchisor shall have the right and authority (without, however, any obligation to do so) immediately to procure such insurance and to charge same to Franchisee, which charges, together with a reasonable fee for Franchisor's expenses in so acting, shall be payable by Franchisee immediately upon notice. The foregoing remedies shall be in addition to any other remedies Franchisor may have at law or in equity.

13. DEBTS AND TAXES

A. Payment of Taxes and Other Obligations. Franchisee shall promptly pay when due all Taxes levied or assessed, and all accounts and other indebtedness of every kind incurred by Franchisee in the conduct of the franchised business under this Agreement. Without limiting the provisions of Section 15, Franchisee shall be solely liable for the payment of all Taxes and shall indemnify Franchisor for the full amount of all such Taxes and for any liability (including penalties, interest and expenses) arising from or concerning the payment of Taxes, whether Taxes were correctly or legally asserted or not.

B. No Deduction. Each payment to be made to Franchisor hereunder shall be made free and clear and without deduction for any Taxes. If any amount to be paid or reimbursed under this Agreement to Franchisor is subject to any deductions or withholdings for any present or future Taxes imposed by any competent governmental authority, then Franchisee must pay or reimburse an additional amount to Franchisor as is necessary so that the net amount actually received by Franchisor after such deduction, payment or withholding will equal the full amount stated to be payable or reimbursable under this Agreement.

C. Credit Standing. Franchisee recognizes that the failure to make payments, or repeated delays in making prompt payments to suppliers will result in a loss of credit rating or standing which will be detrimental to the goodwill associated with the Marks and the System. Franchisee agrees to promptly pay when due all amounts owed by Franchisee to Franchisor, its Affiliates, all suppliers, all lenders providing financing to Franchisee under an arrangement with Franchisor (if any), and all governmental authorities. In the event of any bona fide dispute as to Franchisee's liability for taxes assessed or other indebtedness, Franchisee may contest the validity or the amount of the tax or indebtedness in accordance with the procedures of the taxing authority or applicable law; provided, however, that Franchisee must pay all uncontested amounts when due and, if the dispute as to the contested amount is not resolved within thirty (30) days of the date upon which the indebtedness or payment became due, Franchisee shall pay all remaining amounts in full and submit the matter for resolution pursuant to the dispute resolution provisions of this Agreement. However, in no event shall Franchisee permit a tax sale or seizure by levy of execution or similar writ or warrant or attachment by a creditor, to occur against the premises of the franchised business or any improvements thereon.

D. Legal Compliance. Franchisee shall comply with all federal, state and local laws, rules and regulations and shall timely obtain any and all permits, certificates or licenses necessary for the full and proper conduct of the franchised business, including, without limitation, licenses to do business, fictitious name registrations, liquor licenses, sales tax permits, fire clearances, health permits, certificates of occupancy and any permits, certificates or licenses required by any environmental, disability or handicap law, rule or regulation.

E. Notice of Adverse Orders. Franchisee shall notify Franchisor in writing within five (5) days of the commencement of any action, suit or proceeding and of the issuance of any order, writ, injunction, award or decree of any court, agency or other governmental instrumentality, which may adversely affect the operation or financial condition of the franchised business and within twenty-four (24) hours after Franchisee receives notice of the filing of any tax or other lien.

14. TRANSFER OF INTEREST

A. By Franchisor. Franchisor shall have the right to transfer or assign this Agreement and all or any part of its rights or obligations herein to any person or legal entity. Specifically, and without limitation to the foregoing, Franchisee agrees that Franchisor may sell its assets, the Marks or the System to a third party; may offer its securities privately or publicly; may merge, acquire other corporations or be acquired by another corporation; may undertake a refinancing, recapitalization, leveraged buyout or other economic or financial restructuring; and with regard to any or all of the above sales, assignments and

dispositions, Franchisee expressly and specifically waives any claims, demands, or damages against Franchisor arising from or related to the transfer of the Marks (or any variation thereof) or the System from Franchisor to any other party. Nothing contained in this Agreement shall require Franchisor to offer any services or products, whether or not bearing the Marks, to Franchisee, if Franchisor assigns its rights in this Agreement.

B. By Franchisee and the Controlling Principals.

(1) Franchisee understands and acknowledges that the rights and duties set forth in this Agreement are personal to Franchisee, and that Franchisor has granted rights under this Agreement in reliance on the business skill, financial capacity and personal character of Franchisee and the Controlling Principals. Accordingly, neither Franchisee nor any Controlling Principal, nor any successor or assign of Franchisee or any Controlling Principal, shall sell, assign, transfer, convey, give away, pledge, mortgage or otherwise encumber any direct or indirect interest in this Agreement, in the Restaurant or in Franchisee (including, without limitation, any new issuance of stock or other ownership interest in Franchisee) without the prior written consent of Franchisor. Any purported assignment or transfer, by operation of law or otherwise, made in violation of this Agreement shall be null and void and shall constitute a material event of default under this Agreement.

(2) If Franchisee wishes to transfer all or part of its interest in the Restaurant or this Agreement or if Franchisee or a Controlling Principal wishes to transfer any ownership interest in Franchisee, transferor and the proposed transferee shall apply to Franchisor for its consent. Franchisor shall not unreasonably withhold its consent to a transfer of any interest in Franchisee, in the Restaurant or in this Agreement. Franchisor may, in its sole discretion, require any or all of the following as conditions of its approval:

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

(b) Franchisee and its Affiliates shall not be in default of any provision of this Agreement, any amendment hereof or successor hereto, or any other agreement between Franchisee or any of its Affiliates and Franchisor or any of its Affiliates, and Franchisee shall have substantially and timely complied with all the terms and conditions of such agreements during the terms thereof;

(c) The transferor and its Principals (if applicable) shall have executed a general release, in a form satisfactory to Franchisor, of any and all claims against Franchisor, its parent, Affiliates, successors and assigns, their respective officers, directors, shareholders, partners, members, agents, representatives, independent contractors, servants and employees of each of them, in their corporate and individual capacities, including, without limitation, claims arising under this Agreement and federal, state and local laws, rules and regulations;

(d) The transferee shall demonstrate to Franchisor's satisfaction that transferee meets the criteria considered by Franchisor when reviewing a prospective Franchisee's application for a license, including, but not limited to, Franchisor's educational, managerial and business standards; transferee's good moral character, business reputation and credit rating; transferee's aptitude and ability to conduct the business licensed herein (as may be evidenced by prior related business experience or otherwise); transferee's financial resources and capital for operation of the business; and the geographic proximity of other Texas Roadhouse Restaurants owned or operated by transferee, and no transferee may own, operate, be employed by, or associated with, any Competitive Business;

(e) The transferee shall enter into a written agreement, in a form satisfactory to Franchisor, assuming full, unconditional, joint and several liability for, and agreeing to perform from the date of the transfer, all obligations, covenants and agreements contained in this Agreement; and, if transferee is a corporation or a partnership, transferee's shareholders, partners or other investors, as applicable, shall execute such agreement as transferee's principals and guarantee the performance of all such obligations, covenants and agreements;

(f) The transferee shall execute, for a term ending on the expiration date of this Agreement and with such renewal terms as may be provided by this Agreement, the standard form Franchise Agreement then being offered to new System Franchisees and other ancillary agreements as Franchisor may require for the Restaurant, which agreements shall supersede this Agreement and its ancillary documents in all respects and the terms of which agreements may differ from the terms of this Agreement, including, without limitation, a higher percentage royalty fee and a higher marketing contribution or expenditure requirement; provided that the transferee shall not be obligated to pay to Franchisor an initial franchise fee; and, if transferee is a corporation or a partnership, transferee's shareholders, partners or other investors, as applicable, shall execute such agreement as transferee's principals and guarantee the performance of all such obligations, covenants and agreements;

(g) The transferee, at its expense, shall renovate, modernize and otherwise upgrade the Restaurant and, if applicable, any Restaurant catering or delivery vehicles to conform to the then-current standards and specifications of the System, and shall complete the upgrading and other requirements within the time period reasonably specified by Franchisor;

(h) The transferor shall remain liable for all of the obligations to Franchisor in connection with the Restaurant incurred prior to the effective date of the transfer and shall execute any and all instruments reasonably requested by Franchisor to evidence such liability;

(i) At the transferee's expense, the transferee, the transferee's Operating Principal, additional managers and/or any other applicable Restaurant personnel shall complete any training programs then in effect for Franchisees of Texas Roadhouse Restaurants upon such terms and conditions as Franchisor may reasonably require;

(j) Franchisee shall pay a transfer fee of Three Thousand Five Hundred and 00/100 Dollars (\$3,500.00) to Franchisor, or such greater amount as is necessary to reimburse Franchisor for its reasonable costs and expenses associated with reviewing the application to transfer, including, without limitation, legal and accounting fees;

(k) If the transferee is a corporation or a partnership, the transferee shall make and will be bound by any or all of the representations, warranties and covenants set forth at Section 6 as Franchisor requests. Transferee shall provide to Franchisor evidence satisfactory to Franchisor that the terms of such Section have been satisfied and are true and correct on the date of transfer; and

(l) Transferor shall demonstrate to Franchisor's satisfaction that the purchase price and terms of sale do not negatively affect the continuing viability of the business post-sale.

(3) Franchisee shall not grant a security interest in the Restaurant or in any of Franchisee's assets without Franchisor's prior written consent, which shall not be unreasonably withheld. As a condition to its consent (if given), Franchisor may require the execution of inter-creditor agreements satisfactory to Franchisor and the agreement of the secured party that, in the event of any default, Franchisor shall have the right and option (but no obligation) to be substituted as obligor to the secured party and to cure Franchisee's default.

(4) Franchisee acknowledges and agrees that each condition which must be met by the transferee is reasonable and necessary to assure such transferee's full performance of the obligations hereunder.

C. Transfer for Convenience of Ownership. In the event the proposed transfer is to a corporation formed solely for the convenience of ownership, Franchisor's consent may be conditioned upon any of the requirements set forth at Section 14.B(2), except that the requirements set forth at Sections 14.B(2)(c), (d), (f), (g), (i) and (j) shall not apply. With respect to a transfer to a corporation formed for the convenience of ownership, Franchisee shall be the owner of all of the voting stock or interest of the corporation and if Franchisee is more than one individual, each individual shall have the same proportionate ownership interest in the corporation as he had in Franchisee prior to the transfer.

D. Right of First Refusal.

(1) If Franchisee wishes to transfer all or part of its interest in the Restaurant or this Agreement or if Franchisee or any Principal (whether a Controlling Principal covered by Section 14.B or a non-Controlling Principal covered by Section 14.H) wishes to transfer any ownership interest in Franchisee, pursuant to any bona fide offer received from a third party to purchase such interest, then such proposed seller shall notify Franchisor in writing of each such offer within five (5) days of its receipt of such offer, and shall provide such information and documentation relating to the offer as Franchisor may require. Franchisor shall have the right and option, exercisable within the later of forty-five (45) days after receipt of such written notification or thirty (30) days following receipt of any additional information requested by Franchisor, to send written notice to the seller that Franchisor intends to purchase the seller's interest on the same terms and conditions offered by the third party. In the event that Franchisor elects to purchase the seller's interest, closing on such purchase must occur within ninety (90) days from the date of notice to the seller of the election to purchase by Franchisor, or such other date as the parties agree upon in writing. Any material change in the terms of any offer prior to closing shall constitute a new offer subject to the same right of first refusal by Franchisor as in the case of an initial offer. Failure of Franchisor to exercise the option afforded by this Section 14.D shall not constitute a waiver of any other provision of this Agreement, including all of the requirements of Section 14 with respect to a proposed transfer.

(2) In the event an offer from a third party provides for payment of consideration other than cash or involves certain intangible benefits, Franchisor may elect to purchase the interest proposed to be sold for the reasonable cash equivalent. If the parties cannot agree within a reasonable time on the reasonable cash equivalent of the non-cash part of the offer, then such amount shall be determined by two (2) appraisers, with each party selecting one (1) appraiser, and the average of their determinations shall be binding. In the event of such appraisal, each party shall bear its own legal and other costs and shall split the appraisal fees. In the event that Franchisor exercises its right of first refusal herein provided, it shall have the right to set off against any payment therefore (i) all fees for any such independent appraiser due from Franchisee hereunder and (ii) all amounts due from Franchisee to Franchisor or any of its Affiliates.

(3) Failure to comply with the provisions of this Section prior to the transfer of any interest in Franchisee, the Restaurant or this Agreement shall constitute a material event of default under this Agreement.

E. Death or Permanent Disability.

(1) Upon the death of Franchisee (if Franchisee is a natural person) or any Controlling Principal who is a natural person and who has an interest in this Agreement, the Restaurant or Franchisee (the "**Deceased**"), the executor, administrator or other personal representative of the Deceased shall transfer such interest to a third party approved by Franchisor within twelve (12) months after the death. If no personal representative is designated or appointed or no probate proceedings are instituted with respect to the estate of the Deceased, then the distributee of such interest must be approved by Franchisor. If the

distributee is not approved by Franchisor, then the distributee shall transfer such interest to a third party approved by Franchisor within twelve (12) months after the death of the Deceased.

(2) Upon the permanent disability of Franchisee (if Franchisee is a natural person) or any Controlling Principal who is a natural person and who has an interest in this Agreement, the Restaurant or Franchisee, Franchisor may, in its sole discretion, require such interest to be transferred to a third party in accordance with the conditions described in this Section 14 within six (6) months after notice to Franchisee. “**Permanent disability**” shall mean any physical, emotional or mental injury, illness or incapacity which would prevent a person from performing the obligations set forth in this Agreement or in the guaranty made part of this Agreement for at least ninety (90) consecutive days and from which condition recovery within ninety (90) days from the date of determination of disability is unlikely. Permanent disability shall be determined by a licensed practicing physician selected by Franchisor, upon examination of the person; or if the person refuses to submit to an examination, then such person automatically shall be deemed permanently disabled as of the date of such refusal for the purpose of this Section 14.E. The costs of any examination required by this Section shall be paid by Franchisor.

(3) Upon the death or claim of permanent disability of Franchisee or any Controlling Principal, Franchisee or a representative of Franchisee must promptly notify Franchisor of such death or claim of permanent disability. At Franchisor’s request, within a reasonable period of time not to exceed thirty (30) days from the date of death or permanent disability, the executor, administrator or other personal representative of the Deceased or disabled person shall provide for interim management of the Restaurant until such time as a transfer has been effected in accordance with the provisions of this Section 14.E, such interim management to be conducted in accordance with the terms of this Agreement. Franchisor may (but is not obligated to) assume such interim management of the Restaurant, provided that (i) interim management of the Restaurant by Franchisor shall not relieve Franchisee of its obligations under this Agreement; (ii) Franchisor shall not be liable for any debts, losses, costs or expenses incurred in the operation of the Restaurant during any such period of interim management; (iii) Franchisor shall have the right to charge a reasonable fee for its management services; and (iv) Franchisee shall, and hereby does, indemnify and hold Franchisor harmless against any and all judgments, fines, losses, liabilities, costs, amounts paid in settlement and reasonable expenses (including, but not limited to attorneys’ fees) incurred in connection with Franchisor’s interim management of the Restaurant, except by reason of Franchisor’s gross negligence or willful misconduct.

(4) Any transfer upon death or permanent disability shall be subject to the same terms and conditions as described in this Section for any inter vivos transfer. If an interest is not transferred upon death or permanent disability as required in this Section, then such failure shall constitute a material event of default under this Agreement.

F. No Waiver. Franchisor’s consent to a transfer of any interest described herein shall not constitute a waiver of any claims which Franchisor may have against the transferring party, nor shall it be deemed a waiver of Franchisor’s right to demand exact compliance with any of the terms of this Agreement by the transferee.

G. Securities Offerings. Securities, partnership or other ownership interests in Franchisee may not be offered to the public under the Securities Act of 1933, as amended, nor may they be registered under the Securities Exchange Act of 1934, as amended, or any comparable federal, state or foreign law, rule or regulation. Such interests may be offered by private offering or otherwise only with the prior written consent of Franchisor, which consent shall not be unreasonably withheld. All materials required for any such private offering by federal or state law shall be submitted to Franchisor for a limited review as discussed below prior to being filed with any governmental agency; and any materials to be used in any exempt offering shall be submitted to Franchisor for such review prior to their use. No Franchisee offering shall contain any form that is contrary to or inconsistent with any provision of the Franchise Agreement or imply (by use of the Marks or otherwise) that Franchisor is participating in an underwriting, issuance or



offering of securities of Franchisee or Franchisor, and Franchisor's review of any offering materials shall be limited solely to the subject of the relationship between Franchisee and Franchisor and its Affiliates. Franchisor may, at its option, require Franchisee's offering materials to contain a written statement prescribed by Franchisor concerning the limitations described in the preceding sentence. Franchisee, its Controlling Principals and the other participants in the offering must fully indemnify Franchisor, and its parent, Affiliates, successors and assigns, their respective officers, directors, shareholders, partners, members, agents, representatives, independent contractors, servants and employees of each of them, in connection with the offering. For each proposed offering, Franchisee shall pay to Franchisor a non-refundable fee of Three Thousand Five Hundred and 00/100 Dollars (\$3,500.00), or such greater amount as is necessary to reimburse Franchisor for its reasonable costs and expenses associated with reviewing the proposed offering, including, without limitation, legal and accounting fees. Franchisee shall give Franchisor written notice at least thirty (30) days prior to the date of commencement of any offering or other transaction covered by this Section 14.G.

H. Transfers by Non-Controlling Principals. If any person holding an interest in Franchisee, this Agreement or the Restaurant (other than Franchisee or a Controlling Principal, which parties shall be subject to the provisions set forth above) transfers such interest, then Franchisee shall promptly notify Franchisor of such proposed transfer in writing and shall provide such information relative thereto as Franchisor may reasonably request prior to such transfer. No such transferee may own, operate, be employed by, or associated with, any Competitive Business or have been convicted of or entered a plea of nolo contendere to a felony, a crime involving moral turpitude or any similar offense. Such transferee will be one of Franchisee's Principals and as such will have to execute a confidentiality agreement and ancillary covenants not to compete in the form then required by Franchisor, which form shall be in substantially the same form attached hereto as Attachment D (see Section 10.F). Franchisor also reserves the right to designate the transferee as one of the Controlling Principals.

I. Franchisor's Option to Purchase Franchised Business.

(1) Anything in this Agreement to the contrary notwithstanding, at any time during the term of this Agreement, Franchisor shall have the right and option (but no obligation) either (i) to require that Franchisee transfer its assets, subject to its liabilities, to Texas Roadhouse, Inc. ("**TXRH**") or one of its subsidiaries solely in exchange for TXRH Class A common stock ("**TXRH Shares**"), or (ii) to require that all owners of equity interests in Franchisee ("**Owners**") convert their equity interests in Franchisee into TXRH Shares, in either case through an exchange, merger or other transaction specified by TXRH (in either case, a "**Roll-Up**"). Provided Franchisee is a corporation that is eligible to participate in a reorganization under Section 368 of the Internal Revenue Code ("**Section 368**") and Franchisee and the Owners cooperate with TXRH in complying with the requirements of Section 368, the Public Company will use its best efforts to ensure that the Roll-Up qualifies as a tax-free reorganization under Section 368. In any event, Franchisee shall be obligated to transfer its assets in exchange for TXRH Shares, and the Owners shall be obligated to convert their equity interests in Franchisee into TXRH Shares, on the basis set forth below. In that regard, Franchisee or the Owners, as appropriate, shall execute and deliver all agreements, including an Agreement and Plan of Reorganization or Exchange in substantially the same form as that attached thereto as **Exhibit "A"**, questionnaires, certificates, affidavits and other documents that TXRH requests to effect the transaction in accordance with this Agreement and applicable securities and tax laws, and will otherwise cooperate fully with Franchisor and TXRH to effect the Roll-Up.

(2) Franchisor may assign the right to compel a Roll-Up to TXRH. Further, TXRH will be a third-party beneficiary of this Section 14.I and may enforce the obligations of Franchisee and the Owners directly, in its own name. Following a Roll-Up, Franchisee shall comply with the post-termination obligations set forth in Section 18 of this Agreement, including the obligations of confidentiality and non-competition in Section 18.H.

(3) If Franchisor or TXRH initiates a Roll-Up, Franchisee or the Owners, as the case may be, will be required to accept so-called “*lettered stock*” that cannot be sold or transferred except in compliance with Rule 144 under the Securities Act or in a transaction that is otherwise exempt from registration under the Securities Act.

(4) Franchisee or the Owners, as applicable, shall be entitled to receive TXRH Shares equal to sixty percent (60%) of the number of shares that bears the same relationship to the total number of TXRH Shares that will be outstanding at the close of business at the end of the Measurement Period, as defined below, (excluding TXRH Shares issuable pursuant to this Section 14.I and to other franchisees in similar transactions) as the Adjusted Pre-Tax Earnings (defined below) of Franchisee’s Restaurant during the Measurement Period (defined below) bears to the Company Pro Forma Adjusted Pre-Tax Earnings (defined below) during the Measurement Period. The number of TXRH Shares to be issued to Franchisee or the Owners, as applicable, pursuant to this Section 14.I shall be reduced by an amount determined by dividing (1) the sum of (a) any Excess Debt (defined below), and (b) if the Restaurant has not opened, Franchisor’s good faith estimate of all future expenses that will be incurred to complete the development of the Restaurant through the Opening Date, by (2) the Fair Market Value (defined below) of TXRH Shares. Additionally, Franchisee or Owners shall receive an amount of additional shares equal to (a) the positive balance of Franchisee’s Working Capital on the date of the Roll-Up, divided by (b) the Fair Market Value of TXRH Shares. If Franchisee’s Working Capital on the date of the Roll-Up is negative, the amount of shares to be issued to Franchisee or Owners shall be reduced by an amount of shares equal to (a) the negative balance of Franchisee’s Working Capital on the date of the Roll-Up, divided by (b) the Fair Market Value of TXRH Shares. Franchisor or TXRH shall have the right to retain in escrow a reasonable percentage of TXRH Shares to be received by Owners or Franchisee for a reasonable period of time after the Roll-Up to ensure that Working Capital balances are properly calculated before the final addition or deduction of shares is determined.

(5) As used in this Section 14.I:

(a) “*Adjusted Pre-Tax Earnings*” means an amount calculated according to GAAP and in the manner prescribed by Franchisor in the Operations Manual, equal to the Restaurant’s store level pre-tax earnings, after deductions for franchise fees, royalties, and accrued but unpaid rent, as adjusted by adding back any deductions for management fees, accounting fees, bonuses paid to the Restaurant’s Market Partner and other general and administrative expenses, restaurant pre-opening expenses, interest on Excess Debt (defined below); and by subtracting the amount, if any, that the total compensation paid to the Restaurant’s Managing Partner is less than the sum of (i) Forty-Five Thousand and 00/100 Dollars (\$45,000.00) plus (ii) Ten Percent (10%) of the Restaurant’s store level pre-tax earnings, and the amount by which current annualized interest payments on Franchisee’s Debt exceeds the actual interest payments on Franchisee’s Debt during the Measurement Period.

(b) “*Company Pro Forma Adjusted Pre-Tax Earnings*” means the pre-tax income of the Public Company, increased by adding general and administrative expenses, Market Partner bonuses, nonrecurring items and restaurant pre-opening expenses.

(c) “*Personal Property*” means furniture, fixtures, equipment and signage used in the Restaurant and owned by Franchisee.

(d) “*Excess Debt*” means the amount, if any, by which all debt secured by the Restaurant’s land, building, improvements and Personal Property (“*Franchisee’s Debt*”) exceeds the sum of 85% of the fair market value of the Restaurant’s land, building and improvements secured by debt.

(e) “*Fair Market Value*” means the five (5)-day average closing price per share of TXRH Shares immediately prior to the Roll-Up.

(f) **“Measurement Period”** means the four (4) full calendar quarters prior to the delivery of the Roll-Up Notice (defined below). However, if Franchisee’s Restaurant has been open for at least five full fiscal months, but less than fourteen (14) full fiscal months, the Restaurant’s Adjusted Pre-Tax Earnings shall be calculated on an annualized basis, based upon the number of full fiscal months the Restaurant has been open (excluding its first two (2) full fiscal months of operation). Further, if the Restaurant has not opened or has been open for less than five (5) full fiscal months, the its Adjusted Pre-Tax Earnings shall be deemed to be the simple average adjusted pre-tax earnings (calculated in the same manner as Adjusted Pre-Tax Earnings) of all Texas Roadhouse Restaurants owned in whole or in part by the Public Company that have been open for at least four full calendar quarters prior to the delivery of the Roll-Up Notice.

(g) **“Working Capital”** means current assets less current liabilities.

(6) Franchisor or TXRH shall exercise its right under this Section 14.I by delivering a written notice thereof (the **“Roll-Up Notice”**) to Franchisee at least twenty (20) days prior to consummation of the Roll-Up.

(7) The following calculation demonstrates the application of the formula expressed in Section 14.I(4):

(a) Assumptions:

- (1) Company Pro Forma Adjusted Pre-Tax Earnings - \$225,000,000
- (2) Adjusted Pre-Tax Earnings of Franchisee’s Restaurant - \$500,000
- (3) Total TXRH Shares to be outstanding at the close of business on the last day of the Measurement Period (excluding Roll-Up shares) - 70,000,000
- (4) Franchisee’s Debt - \$900,000
- (5) Fair market value of Franchisee’s Restaurant’s land, building and improvements - \$1,000,000
- (6) Franchisee’s Working Capital balance/(deficit) – (\$100,000)
- (7) Fair Market Value of TXRH Shares - \$25.00

(b) Calculation:

- (1) Relationship of Adjusted Pre-Tax Earnings of Franchisee’s Restaurant to the Company Pro Forma Adjusted Pre-Tax Earnings of TXRH during the Measurement Period:  $\$500,000 \div \$225,000,000 = 0.22\%$
- (2) Excess Debt:  $\$900,000 - (\$1,000,000 \times 85\%) = \$50,000$
- (3) Working capital balance/(deficit): (\$100,000)
- (4) Reduction in Roll-Up Shares:  $(\$50,000 + \$100,000) \div \$25.00 = 6,000$  shares

- (5) Number of TXRH Shares to be received by Franchisee or Owners, as applicable:  $(70,000,000 \times 0.22\% \times 60\%) - 6,000 = 86,400$  shares

(8) At all times prior to the Roll-Up, Franchisee shall annually, within ninety (90) days following the end of each fiscal year, provide Franchisor with annual audited financial statements prepared in accordance with GAAP, as required by Section 11.B(3) of this Agreement.

(9) Franchisee and the Owners shall not enter into any arrangement with any third party that would require such third party's approval of the transactions set forth herein or which may otherwise prevent or inhibit the ability of Franchisee or the Owners to perform under this Section 14.I.

## 15. INDEMNIFICATION

A. Indemnity. Franchisee and each of the Controlling Principals shall, at all times, indemnify, defend and hold harmless to the fullest extent permitted by law Franchisor, its parent, Affiliates, successors and assigns, their respective officers, directors, shareholders, partners, members, agents, representatives, independent contractors, servants and employees of each of them ("*Indemnitees*"), from all "*losses and expenses*" (as defined in Section 15.D(2) below) incurred in connection with any action, suit, proceeding, claim, demand, investigation or inquiry (formal or informal), or any settlement thereof (whether or not a formal proceeding or action has been instituted) which arises out of or is based upon any of the following:

(1) The infringement, alleged infringement, or any other violation or alleged violation by Franchisee or any of the Controlling Principals of any patent, mark or copyright or other proprietary right owned or controlled by third parties (except as such may occur with respect to any right to use the Marks, any copyrights or other proprietary information granted hereunder pursuant to Section 10);

(2) The violation, breach or asserted violation or breach by Franchisee or any of the Controlling Principals of any federal, state or local law, regulation, ruling, standard or directive or any industry standard;

(3) Libel, slander or any other form of defamation of Franchisor, the System or any developer or Franchisee operating under the System, by Franchisee or by any of the Controlling Principals;

(4) The violation or breach by Franchisee or by any of the Controlling Principals of any warranty, representation, agreement or obligation in this Agreement or in any other agreement between Franchisee or any of its Affiliates and Franchisor, its parent or any of its Affiliates, successors or assigns, or their respective officers, directors, shareholders, partners, members, agents, representatives, independent contractors, servants and employees of any of them; and

(5) Acts, errors, or omissions (whether intentional, negligent, or otherwise) of Franchisee, any of Franchisee's Affiliates and any of the Controlling Principals and the officers, directors, shareholders, partners, members, agents, representatives, independent contractors and employees of Franchisee and its Affiliates in connection with the establishment and operation of the Restaurant, including, but not limited to, employee and employment-related matters and any acts, errors or omissions (whether intentional, negligent, or otherwise) of any of the foregoing in the operation of any motor vehicle. The parties understand and agree that Franchisor cannot and does not exercise control over the manner of operation of any motor vehicles used by, or on behalf of, Franchisee or any employee, agent or independent contractor of Franchisee and that the safe operation of any motor vehicle is, therefore, Franchisee's responsibility.

B. Defense of Claim. Franchisee and each of the Controlling Principals agree to give Franchisor notice of any such action, suit, proceeding, claim, demand, inquiry, or investigation. At the expense and risk of Franchisee and each of the Controlling Principals, Franchisor may elect to assume (but under no circumstance is obligated to undertake) or associate counsel of its own choosing with respect to, the defense and/or settlement of any such action, suit, proceeding, claim, demand, inquiry or investigation. Such an undertaking by Franchisor shall, in no manner or form, diminish the obligation of Franchisee and each of the Controlling Principals to indemnify the Indemnitees and to hold them harmless.

C. Remedial Action. In order to protect persons or property, or its reputation or goodwill, or the reputation or goodwill of others, Franchisor may, at any time and without notice, as it, in its judgment deems appropriate, consent or agree to settlements or take such other remedial or corrective action as it deems expedient with respect to the action, suit, proceeding, claim, demand, inquiry or investigation if, in Franchisor's sole judgment, there are reasonable grounds to believe that:

(1) any of the acts or circumstances enumerated in Sections 15.A(1)-(4) above have occurred; or

(2) any act, error, or omission as described in Section 15.A(5) may result directly or indirectly in damage, injury, or harm to any person or any property.

D. Losses and Expenses.

(1) All losses and expenses incurred under this Section 15 shall be chargeable to and paid by Franchisee or any of the Controlling Principals pursuant to its obligations of indemnity under this Section, regardless of any actions, activity or defense undertaken by Franchisor or the subsequent success or failure of such actions, activity, or defense.

(2) As used in this Section 15, the phrase "*losses and expenses*" shall include, without limitation, all losses, compensatory, exemplary or punitive damages, fines, charges, costs, expenses, lost profits, reasonable attorneys' fees, court costs, settlement amounts, judgments, compensation for damages to Franchisor's reputation and goodwill, costs of or resulting from delays, financing, costs of marketing materials and media time/space, and costs of changing, substituting or replacing the same, and any and all expenses of recall, refunds, compensation, public notices and other such amounts incurred in connection with the matters described.

E. Contributory Negligence. The Indemnitees do not assume any liability whatsoever for acts, errors, or omissions (whether intentional, negligent, or otherwise) of any third party with whom Franchisee, any of the Controlling Principals, Franchisee's Affiliates or any of the officers, directors, shareholders, partners, members, agents, representatives, independent contractors and employees of Franchisee or its Affiliates may contract, regardless of the purpose. Franchisee and each of the Controlling Principals shall hold harmless and indemnify the Indemnitees for all losses and expenses which may arise out of any acts, errors or omissions (whether intentional, negligent, or otherwise) of Franchisee, the Controlling Principals, Franchisee's Affiliates, the officers, directors, shareholders, partners, members, agents, representatives, independent contractors and employees of Franchisee and its Affiliates and any such other third parties without limitation and without regard to the cause or causes thereof or the negligence (whether such negligence be sole, joint or concurrent, or active or passive) or strict liability of Franchisor or any other party or parties arising in connection therewith.

F. Mitigation Not Required. Under no circumstances shall the Indemnitees be required or obligated to seek recovery from third parties or otherwise mitigate their losses in order to maintain a claim against Franchisee or any of the Controlling Principals. Franchisee and each of the Controlling Principals agree that the failure to pursue such recovery or mitigate loss will in no way reduce the amounts recoverable from Franchisee or any of the Controlling Principals by the Indemnitees.

G. Survival of Obligation. Franchisee and the Controlling Principals expressly agree that the terms of this Section 15 shall survive the termination, expiration or transfer of this Agreement or any interest herein.

## 16. RELATIONSHIP OF THE PARTIES

A. Independent Contractor Relationship. Franchisee agrees that the relationship created by this Agreement is not a fiduciary, special, or any other similar relationship, but rather is an arm's-length business relationship, and Franchisor owes Franchisee no duties except as expressly provided in this Agreement. Franchisee shall be an independent contractor, and nothing in this Agreement is intended to constitute either party an agent, legal representative, subsidiary, joint venturer, partner, employee, joint employer or servant of the other for any purpose. Franchisor has no control over the day-to-day operation or management of the Restaurant and during the term of this Agreement, Franchisee shall operate the Restaurant in accordance with this Agreement and System Standards holding itself out to the public as an independent contractor conducting its Restaurant operations pursuant to the rights granted by Franchisor. All employees hired by or working for Franchisee shall be the employees of Franchisee and shall not, for any purpose, be deemed employees of Franchisor or subject to Franchisor's control. Franchisee shall file its own tax, regulatory and payroll reports with respect to its employees and operations, saving and indemnifying Franchisor from any liability of any nature whatsoever by virtue thereof.

B. Notice of Relationship. During the term of this Agreement, Franchisee shall hold itself out to the public as an independent contractor conducting its Restaurant operations pursuant to the rights granted by Franchisor. Franchisee agrees to take such action as shall be necessary to that end, including, without limitation, exhibiting a notice of that fact in a conspicuous place on the Restaurant premises established for the purposes hereunder or on any Restaurant catering or delivery vehicle, the content and form of which Franchisor reserves the right to specify in writing.

C. No Liability. Franchisee understands and agrees that nothing in this Agreement authorizes Franchisee or any of the Controlling Principals to make any contract, agreement, warranty or representation on Franchisor's behalf, or to incur any debt or other obligation in Franchisor's name, and that Franchisor shall in no event assume liability for, or be deemed liable under this Agreement as a result of, any such action, or for any act or omission of Franchisee or any of the Controlling Principals or any claim or judgment arising therefrom.

## 17. TERMINATION

A. Material Obligations. Franchisee acknowledges and agrees that each of Franchisee's obligations described in this Agreement is a material and essential obligation of Franchisee; that nonperformance of such obligations will adversely and substantially affect Franchisor and the System; and that the exercise by Franchisor of the rights and remedies set forth herein is appropriate and reasonable.

B. Termination Without Notice or Cure. Franchisee shall be deemed to be in default under this Agreement, and all rights granted herein shall automatically terminate without notice to Franchisee, if Franchisee shall become insolvent or makes a general assignment for the benefit of creditors; or if Franchisee files a voluntary petition under any section or chapter of federal bankruptcy law or under any similar law or statute of the United States or any state thereof, or admits in writing its inability to pay its debts when due; or if Franchisee is adjudicated as bankrupt or insolvent in proceedings filed against

Franchisee under any section or chapter of federal bankruptcy laws or under any similar law or statute of the United States or any state; or if a bill in equity or other proceeding for the appointment of a receiver of Franchisee or other custodian for Franchisee's business or assets is filed and consented to by Franchisee; or if a receiver or other custodian (permanent or temporary) of Franchisee's assets or property, or any part thereof, is appointed by any court of competent jurisdiction; or if proceedings for a composition with creditors under any state or federal law should be instituted by or against Franchisee; or if a final judgment remains unsatisfied or of record for thirty (30) days or longer (unless supersedeas bond is filed); or if Franchisee is dissolved; or if execution is levied against Franchisee's business or property; or if suit to foreclose any lien or mortgage against the Restaurant premises or equipment is instituted against Franchisee and not dismissed within thirty (30) days; or if the real or personal property of Franchisee's Restaurant shall be sold after levy thereupon by any sheriff, marshal or constable.

C. Termination on Notice. Franchisee shall be deemed to be in material default and Franchisor may, at its option, terminate this Agreement and all rights granted hereunder, without affording Franchisee any opportunity to cure the default, effective immediately upon notice to Franchisee, upon the occurrence of any of the following events:

(1) If Franchisee fails to acquire an Approved Location for the Restaurant within the time and in the manner specified in Section 2;

(2) If Franchisee fails to open the Restaurant for business as a full-service Texas Roadhouse Restaurant within the period specified in Section 2;

(3) If Franchisee at any time ceases to operate or otherwise abandons the Restaurant, or loses the right to possession of the premises, or otherwise forfeits the right to do or transact business in the jurisdiction where the Restaurant is located; this provision shall not apply in cases of Force Majeure, if through no fault of Franchisee, the premises are damaged or destroyed, provided that Franchisee applies within thirty (30) days after such event for Franchisor's approval to relocate or reconstruct the premises (which approval shall not be unreasonably withheld) but may be conditioned upon the payment of an agreed minimum fee to Franchisor during the period in which the Restaurant is not in operation and Franchisee diligently pursues such reconstruction or relocation;

(4) If Franchisee or any of the Controlling Principals is convicted of, or has entered a plea of nolo contendere to, a felony, a crime involving moral turpitude, or any other crime or offense that Franchisor believes is reasonably likely to have an adverse effect on the System, the Marks, the goodwill associated therewith, or Franchisor's interests therein;

(5) If a threat or danger to public health or safety results from the construction, maintenance or operation of the Restaurant; provided, that Franchisee may request that Franchisor reinstate this Agreement, if, within six (6) months after termination under this Section 17.C(5), the threat or danger to public health or safety is eliminated and Franchisor has determined that such reinstatement would not cause Franchisor to incur any liability or loss of goodwill;

(6) If Franchisee fails to propose a qualified replacement or successor Operating Principal, Managing Partner or Market Partner within the time period required under Section 6 of this Agreement;

(7) If Franchisee or any of the Controlling Principals transfer any rights or obligations under this Agreement in violation of, or otherwise fail to comply with the terms of Section 14 of this Agreement;

(8) If Franchisee or any of the Controlling Principals fails to comply with the in-term covenants in Section 10.C or Franchisee fails to obtain execution of the covenants and related agreements required under Section 10.F within thirty (30) days after being requested to do so by Franchisor.

(9) If, contrary to the terms of Section 10.B, Franchisee or any of the Controlling Principals discloses or divulges any Confidential Information provided to Franchisee or the Controlling Principals by Franchisor, or fails to obtain execution of covenants and related agreements required under Section 10.F within thirty (30) days after being requested to do so by Franchisor;

(10) If Franchisee knowingly maintains false books or records, or submits any false reports to Franchisor;

(11) If Franchisee breaches in any material respect any of the covenants set forth in Section 6 or has falsely made any of the representations or warranties set forth in Section 6;

(12) If Franchisee or any of the Controlling Principals commits two (2) or more defaults under this Agreement in any twelve (12) month period, whether or not such defaults are of the same or different nature and whether or not such defaults have been cured by Franchisee after notice by Franchisor; or

(13) If Franchisee or its Affiliate materially defaults under the terms and conditions of any other agreement with Franchisor or Franchisor's Affiliate and fails to cure such default within the cure period (if any) set forth therein.

D. Termination with Notice and Cure. Except as provided in Sections 17.B and C, upon any default by Franchisee which is capable of being cured, Franchisor may terminate this Agreement by giving written notice of termination to Franchisee stating the nature of the default and the applicable cure period. Franchisee may avoid termination by immediately initiating a remedy to cure such default and curing it to Franchisor's satisfaction within the applicable cure period by promptly providing proof thereof to Franchisor. If any such default is not cured within the specified time, or such longer period as applicable law may require, this Agreement shall terminate without further notice to Franchisee effective immediately upon the expiration of the applicable cure period or such longer period as applicable law may require. Defaults which are susceptible of cure hereunder may include, but are not limited to, the following:

(1) If Franchisee fails to comply with any of the requirements imposed by this Agreement, as it may from time to time be amended or reasonably supplemented by Franchisor, or fails to carry out the terms of this Agreement in good faith, and fails to cure such default within thirty (30) days following notice by Franchisor;

(2) If Franchisee fails to maintain or observe any of the Standards, specifications or procedures prescribed by Franchisor in this Agreement, the Manuals, or otherwise in writing, and fails to cure such default within thirty (30) days following notice by Franchisor;

(3) If Franchisee fails, refuses, or neglects to obtain Franchisor's prior written approval or consent as required by this Agreement, and fails to cure such default within thirty (30) days following notice by Franchisor;

(4) If Franchisee fails to construct or remodel the Restaurant in accordance with the procedures set forth in Section 2 of this Agreement, and fails to cure such default within thirty (30) days following notice by Franchisor;



(5) If Franchisee operates the Restaurant or sells any products or services authorized by Franchisor for sale at the Restaurant at a location which has not been approved by Franchisor, and fails to cure such default within five (5) days following notice by Franchisor;

(6) If Franchisee fails to procure and maintain the insurance policies as required by Section 12 and Franchisee fails to cure such default within seven (7) days following notice from Franchisor;

(7) If Franchisee or any of its Affiliates fails, refuses, or neglects promptly to pay any monies owing to Franchisor or any of its Affiliates, when due under this Agreement, or to submit the financial or other information required by Franchisor under this Agreement and does not cure such default within five (5) days following notice from Franchisor; or

(8) If Franchisee misuses or makes any unauthorized use of the Marks or otherwise materially impairs the goodwill associated therewith or Franchisor's rights therein, and fails to cure such default within twenty-four (24) hours following notice from Franchisor.

## 18. POST-TERMINATION

Upon termination or expiration of this Agreement, all rights granted hereunder to Franchisee shall forthwith terminate, and:

A. Cease Operations. Franchisee shall immediately cease to operate the Restaurant under this Agreement, and shall not thereafter, directly or indirectly, represent to the public or hold itself out as a present or former Franchisee of Franchisor.

B. Cease Use of the Marks and Confidential Information. Franchisee shall immediately and permanently cease to use, in any manner whatsoever, any Confidential Information, including any computer software and confidential methods, procedures, and techniques associated with the System; the mark "**Texas Roadhouse**"; and all other Marks and distinctive forms, slogans, signs, symbols, and devices associated with the System. In particular, Franchisee shall cease to use, without limitation, all signs, marketing materials, displays, stationery, forms and any other articles which display the Marks.

C. Cancel Assumed Name Registrations. Franchisee shall take such action as may be necessary to cancel any assumed name or equivalent registration which contains the mark "**Texas Roadhouse**" or any other service mark or trademark of Franchisor, and Franchisee shall furnish Franchisor with evidence satisfactory to Franchisor of compliance with this obligation within five (5) days after termination or expiration of this Agreement.

D. No Future Identification with Texas Roadhouse. Franchisee agrees, in the event it continues to operate or subsequently begins to operate any other business, not to use any reproduction, counterfeit, copy or colorable imitation of the Marks, either in connection with such other business or the promotion thereof, which is likely to cause confusion, mistake, or deception, or which is likely to dilute Franchisor's rights in and to the Marks, and further agrees not to utilize any designation of origin or description or representation which falsely suggests or represents an association or connection with Franchisor constituting unfair competition.

E. Pay Amounts Owed. Franchisee and its Controlling Principals shall promptly pay all sums owing to Franchisor and its Affiliates. Such sums shall include all damages, costs and expenses, including reasonable attorneys' fees, incurred by Franchisor as a result of any default by Franchisee, which obligation shall give rise to and remain, until paid in full, a lien in favor of Franchisor against any and all of the personal property, furnishings, equipment, signs, fixtures, and inventory owned by Franchisee and on the premises operated hereunder at the time of default.

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

G. Deliver Manuals and Other Materials. Franchisee shall immediately deliver to Franchisor all Manuals, recipe books, records, files, instructions, correspondence, any computer software licensed by Franchisor, all materials related to operating the Restaurant, including, without limitation, agreements, invoices, and any and all other materials relating to the operation of the Restaurant in Franchisee's possession or control, and all copies thereof (all of which are acknowledged to be Franchisor's property), and shall retain no copy or record of any of the foregoing, except Franchisee's copy of this Agreement and of any correspondence between the parties and any other documents which Franchisee reasonably needs for compliance with any provision of law.

H. Comply with Confidentiality and Noncompetition Covenants. Franchisee and the Controlling Principals shall comply with the restrictions on Confidential Information contained in Section 10 of this Agreement and shall also comply with the non-competition covenants contained in Section 10. Any other person required to execute similar covenants pursuant to Section 10 shall also comply with such covenants.

I. Franchisor's Option to Purchase Materials Bearing the Marks. Franchisee shall also immediately furnish Franchisor an itemized list of all marketing and sales promotion materials bearing the Marks or any of Franchisor's distinctive markings, designs, labels, or other marks thereon, whether located on Franchisee's premises or under Franchisee's control at any other location. Franchisor shall have the right to inspect these materials. Franchisor shall have the option, exercisable within thirty (30) days after such inspection, to purchase any or all of the materials at Franchisee's cost. Materials not purchased by Franchisor shall not be utilized by Franchisee or any other party for any purpose unless authorized in writing by Franchisor.

J. Franchisor's Option to Acquire Leases. If Franchisee operates the Restaurant under a lease for the Restaurant premises with a third party or, with respect to any lease for equipment used in the operation of the franchised business, then Franchisor shall have the option to take assignment of the lease and to purchase from Franchisee or any entity controlled by Franchisee, or one of its Principals, the improvements erected by Franchisee upon the premises, including any building thereon, for the fair market value of the building, and any and all of the furnishings, equipment, signs, fixtures, vehicles, supplies and inventory therein at Franchisee's initial cost or fair market value, whichever is less. Where Franchisee shall assign to Franchisor any interest which Franchisee has in any lease or sublease for the premises of the Restaurant or any equipment related thereto. Franchisee acknowledges and agrees that Franchisor shall have no obligation under any circumstances to reimburse or otherwise compensate Franchisee in connection with any such lease assignment. Franchisor may exercise such option at or within thirty (30) days after either termination or (subject to any existing right to renew) expiration of this Agreement. In the event Franchisor does not elect to exercise its option to acquire the lease or sublease for the Restaurant premises (or, if applicable, does not exercise its options under Section 18.K(2)) or does not have such option, Franchisee shall make such modifications or alterations to the Restaurant premises as are necessary to distinguish the appearance of the Restaurant from that of other restaurants operating under the System and shall make such specific additional changes as Franchisor may reasonably request. If Franchisee fails or refuses to comply with the requirements of this Section 18.J, Franchisor shall have the right to enter upon the premises of the franchised business, without being guilty of trespass or any other crime or tort, to make or cause to be made such changes as may be required, at the expense of Franchisee, which expense Franchisee agrees to pay upon demand.

K. Franchisor's Option to Acquire Restaurant and Assets.

(1) Except as provided in Section 18.I, Franchisor shall have the option, to be exercised within thirty (30) days after termination or expiration of this Agreement, to purchase from Franchisee or any entity controlled by Franchisee or one of its principals any or all of the furnishings, equipment (including any computer hardware, software and related documentation not licensed by Franchisor), signs, fixtures, motor vehicles, supplies, and inventory of Franchisee related to the operation of the Restaurant, at Franchisee's cost or fair market value, whichever is less. Franchisor shall be purchasing Franchisee's assets only and shall be assuming no liabilities whatsoever, unless otherwise agreed to in writing by the parties. If the parties cannot agree on the fair market value within thirty (30) days of Franchisor's exercise of its option, fair market value shall be determined by two (2) appraisers, with each party selecting one (1) appraiser, and the average of their determinations shall be binding. In the event of such appraisal, each party shall bear its own legal and other costs and shall split the appraisal fees. If Franchisor elects to exercise any option to purchase herein provided, it shall have the right to set off (i) all fees for any such independent appraiser due from Franchisee, (ii) all amounts due from Franchisee to Franchisor or any of its Affiliates, and (iii) any costs incurred in connection with any escrow arrangement (including reasonable legal fees), against any payment therefore and shall pay the remaining amount in cash.

(2) In addition to the options described above and if Franchisee or any entity controlled by Franchisee or one of its principals owns the Restaurant premises, Franchisor shall have the option, to be exercised at or within thirty (30) days after termination or expiration of this Agreement, to purchase the Restaurant premises including any building thereon, if applicable, for the fair market value of the land and building, and any or all of the furnishings, equipment, signs, fixtures, vehicles, supplies and inventory therein at Franchisee's cost or fair market value, whichever is less. Franchisor shall purchase assets only and shall assume no liabilities whatsoever, unless otherwise agreed to in writing by the parties. If Franchisee or any entity controlled by Franchisee or one of its principals does not own the land on which the Restaurant is operated and Franchisor exercises its option for an assignment of the lease, Franchisor may exercise this option for the purpose of purchasing the building if owned by Franchisee and related assets as described above. If the parties cannot agree on fair market value within thirty (30) days of Franchisor's exercise of its option, fair market value shall be determined in accordance with appraisal procedure described above.

(3) With respect to the options described in Sections 18.J and K(1) and (2), Franchisee or any entity controlled by Franchisee or one of its principals shall deliver to Franchisor in a form satisfactory to Franchisor, such warranties, deeds, releases of lien, bills of sale, assignments and such other documents and instruments which Franchisor deems necessary in order to perfect Franchisor's title and possession in and to the properties being purchased or assigned and to meet the requirements of all tax and government authorities. If, at the time of closing, Franchisee has not obtained all of these certificates and other documents, Franchisor may, in its sole discretion, place the purchase price in escrow pending issuance of any required certificates or documents.

(4) The time for closing of the purchase and sale of the properties described in Sections 18.K(1) and (2) shall be a date not later than thirty (30) days after the purchase price is determined by the parties or the determination of the appraisers, whichever is later, unless the parties mutually agree to designate another date. The time for closing on the assignment of the lease described in Section 18.J shall be a date not later than ten (10) days after Franchisor's exercise of its option thereunder unless Franchisor is exercising its options under either Section 18.K(1) or (2), in which case the date of the closing shall be on the same closing date prescribed for such option. Closing shall take place at Franchisor's corporate offices or at such other location as the parties may agree.

L. Assignment of Option Rights. Franchisor shall be entitled to assign any and all of its options in this Section 18 to any other party, without the consent of Franchisee.

M. Franchisor's Option to Acquire Telephone Numbers and Other Business Listings. At Franchisor's option, Franchisee shall assign to Franchisor all rights to the telephone numbers of the Restaurant and any related Yellow Pages trademark listings, as well as all rights to any Internet websites including, without limitation, social media sites, domain names, URLs, listings, services, search engines or systems and any other business listings related to the Restaurant. Franchisee shall execute all forms and documents required by Franchisor, the telephone company, any Internet service provider, social media or domain name registrar, or other third party to transfer the telephone service, telephone numbers, domain names and other rights listed above to Franchisor. Franchisee hereby appoints Franchisor as its true and lawful agent and attorney-in-fact with full power and authority, for the sole purpose of taking all action necessary to complete such assignment; this power of attorney will survive the expiration or termination of this Agreement. After the assignment, Franchisee shall use different telephone numbers, domain names and listings at or in connection with any subsequent business it may conduct.

19. MISCELLANEOUS

A. Notices. Any and all notices required or permitted under this Agreement shall be in writing and shall be personally delivered or mailed by expedited delivery service or certified or registered mail, return receipt requested, first-class postage prepaid, or sent by facsimile, or electronic mail (provided that the sender confirms the facsimile or electronic mail by sending an original confirmation copy by certified or registered mail or expedited delivery service within three (3) Business Days after transmission) to the respective parties at the following addresses unless and until a different address has been designated by written notice to the other party:

Notices to Franchisor:

Texas Roadhouse Development Corporation  
6040 Dutchmans Lane  
Louisville, Kentucky 40205  
Attention: Legal Department  
Facsimile: (502) 426-3274

Notices to Franchisee and  
the Controlling Principals:

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

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

B. Entire Agreement. This Agreement, the documents referred to herein, and the Addenda (if applicable) and, Attachments and Exhibits hereto, constitute the entire, full and complete agreement between Franchisor and Franchisee and the Controlling Principals concerning the subject matter hereof and shall supersede all prior related agreements between Franchisor and Franchisee and the Controlling Principals; provided, however, that nothing in this or any related agreement is intended to disclaim the representations made by Franchisor in the franchise disclosure document that it furnished to Franchisee in connection with the execution of this Agreement. Except for those permitted to be made unilaterally by Franchisor hereunder, no amendment, change or variance from this Agreement shall be binding on either party unless mutually agreed to by the parties and executed by their authorized officers or agents in writing.

C. No Waiver. No delay, waiver, omission or forbearance on the part of Franchisor to exercise any right, option, duty or power arising out of any breach or default by Franchisee or the Controlling Principals under this Agreement shall constitute a waiver by Franchisor to enforce any such right, option, duty or power against Franchisee or the Controlling Principals, or as to a subsequent breach or default by Franchisee or the Controlling Principals. Acceptance by Franchisor of any payments due to it hereunder subsequent to the time at which such payments are due shall not be deemed to be a waiver by Franchisor of any preceding breach by Franchisee or the Controlling Principals of any terms, provisions, covenants or conditions of this Agreement.

D. Procedure for Approval or Consent. Whenever this Agreement requires the prior approval or consent of Franchisor, Franchisee shall make a timely written request to Franchisor, and such approval or consent shall be obtained in writing.

E. No Implied Warranties. Franchisor makes no warranties or guarantees upon which Franchisee may rely and assumes no liability or obligation to Franchisee or any third party to which it would not otherwise be subject, by providing any waiver, approval, advice, consent or suggestion to Franchisee in connection with this Agreement, or by reason of any neglect, delay or denial of any request therefore. No approval given by Franchisor to Franchisee or to any other franchisee shall constitute a waiver of Franchisee's obligation to seek approval for a subsequent event.

F. Force Majeure. If a Force Majeure event shall occur, then, in addition to payments required under Section 17.C(3), Franchisee shall continue to be obligated to pay to Franchisor any and all amounts that it shall have duly become obligated to pay in accordance with the terms of this Agreement prior to the occurrence of any Force Majeure event and the Indemnitees shall continue to be indemnified and held harmless by Franchisee in accordance with Section 15. Except as provided in Section 17.C(3) and the immediately preceding sentence herein, none of the parties hereto shall be held liable for a failure to comply with any terms and conditions of this Agreement when such failure is caused by an event of Force Majeure. Upon the occurrence of any event of the type referred to herein, the party affected thereby shall give prompt notice thereof to the other parties, together with a description of the event, the duration for which the party expects its ability to comply with the provisions of the Agreement to be affected thereby and a plan for resuming operation under the Agreement, which the party shall promptly undertake and maintain with due diligence. Such affected party shall be liable for failure to give timely notice only to the extent of damage actually caused.

G. Anti-Terrorism. Franchisee certifies that neither Franchisee nor any of Franchisee's Principals, employees, or anyone associated with Franchisee is listed in connection with any Anti-Terrorism Law, and Franchisee agrees not to hire or have any dealings with a person so listed. Franchisee further certifies that Franchisee has no knowledge or information that, if generally known, would result in Franchisee, Franchisee's Principals, employees, or anyone associated with Franchisee being so listed. Franchisee agrees to comply with and/or assist Franchisor to the fullest extent possible in Franchisor's efforts to comply with the Anti-Terrorism Laws and, in connection with such compliance, Franchisee represents and warrants that none of Franchisee's property or interests are subject to being "**blocked**" under any of the Anti-Terrorism Laws and that Franchisee and Franchisee's Principals are not otherwise in violation of any of the Anti-Terrorism Laws. Franchisee is solely responsible for ascertaining the actions it must take to comply with all Anti-Terrorism Laws, and Franchisee specifically acknowledges and agrees that its indemnification responsibilities as provided in this Agreement pertain to its obligations under this Section 19.G. Any misrepresentation by Franchisee under this Section or any violation of the Anti-Terrorism Laws by Franchisee, its owners, or employees shall constitute grounds for immediate termination of this Agreement and any other agreement Franchisee has entered into with Franchisor or one of its affiliates.

H. Limitation on Claims. Franchisee and the Controlling Principals, jointly and severally, agree that no cause of action arising out of or under this Agreement may be maintained by Franchisee nor

the Controlling Principals against Franchisor unless brought before the expiration of two (2) years after the act, transaction or occurrence upon which such action is based or the expiration of one (1) year after Franchisee or the Controlling Principals become aware of facts or circumstances reasonably indicating that such party may have a claim against Franchisor hereunder, whichever occurs sooner, and that any action not brought within this period shall be barred as a claim, counterclaim, defense or setoff.

I. Mediation. The parties agree to submit any claim, controversy or dispute arising out of or relating to this Agreement (and all attachments, exhibits and addenda) or the relationship created by this agreement to non-binding mediation prior to bringing such claim, controversy or dispute in a court or before any other tribunal. The mediation shall be conducted through either an individual mediator or a mediator appointed by a mediation services organization or body, experienced in the mediation of food service business disputes, agreed upon by the parties and, failing such agreement within a reasonable period of time after either party has notified the other of its desire to seek mediation of any claim, controversy or dispute (not to exceed fifteen (15) days), by the American Arbitration Association in accordance with its rules governing mediation, at Franchisor's corporate headquarters, currently in Louisville, Kentucky. The costs and expenses of mediation, including compensation and expenses of the mediator (and except for the attorney's fees incurred by either party), shall be borne by the parties equally. If the parties are unable to resolve the claim, controversy or dispute within ninety (90) days after the mediator has been chosen, then either party may bring a legal proceeding under Section 19.I below to resolve such claim, controversy or dispute unless such time period is extended by written agreement of the parties. Notwithstanding the foregoing, Franchisor may bring an action (1) for monies owed, (2) for injunctive or other extraordinary relief, or (3) involving the possession or disposition of, or other relief relating to, real property in a court having jurisdiction and in accordance with Section 19.I below, without first submitting such action to mediation.

J. Jurisdiction and Venue: Governing Law.

(1) With respect to any claims, controversies or disputes which are not finally resolved through mediation or as otherwise provided above, Franchisee and the Controlling Principals hereby irrevocably submit themselves to the jurisdiction of the state courts of Jefferson County, Kentucky and the federal district court for the Western District of Kentucky. Franchisee and the Controlling Principals hereby waive all questions of personal jurisdiction for the purpose of carrying out this provision and hereby agree that service of process may be made upon any of them in any proceeding relating to or arising out of this Agreement or the relationship created by this Agreement by any means allowed by Kentucky or federal law. Franchisee and the Controlling Principals further agree that venue for any proceeding relating to or arising out of this agreement shall be Jefferson County, Kentucky; provided, however, with respect to any action (1) for monies owed, (2) for injunctive or other extraordinary relief, or (3) involving possession or disposition of, or other relief relating to, real property, Franchisor may bring such action in any state or federal district court which has jurisdiction. With respect to all claims, controversies, disputes or actions, this agreement shall be interpreted and construed under Kentucky law (except for Kentucky choice of law rules).

(2) Franchisee, the Controlling Principals and franchisor acknowledge that the parties' agreement regarding applicable state law and forum set forth in Section 19.I(1) above provide each of the parties with the mutual benefit of uniform interpretation of this Agreement and any dispute arising out of this Agreement or the parties' relationship created by this Agreement. Each of Franchisee, the Controlling Principals and Franchisor further acknowledges the receipt and sufficiency of mutual consideration for such benefit.

(3) Franchisee, the Controlling Principals and Franchisor acknowledge that the execution of this Agreement and acceptance of the terms by the parties occurred in Louisville, Kentucky, and further acknowledge that the performance of certain obligations of Franchisee arising under this

agreement, including, but not limited to, the payment of monies due hereunder and the satisfaction of certain training requirements of Franchisor, shall occur in Louisville, Kentucky.

K. WAIVER OF DAMAGES; WAIVER OF JURY TRIAL.

(1) FRANCHISEE AND THE CONTROLLING PRINCIPALS HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO OR CLAIM OR ANY PUNITIVE, EXEMPLARY, INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR OTHER DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS) AGAINST FRANCHISOR, ITS AFFILIATES, AND THE OFFICERS, DIRECTORS, SHAREHOLDERS, PARTNERS, AGENTS, REPRESENTATIVES, INDEPENDENT CONTRACTORS, SERVANTS AND EMPLOYEES OF EACH OF THEM, IN THEIR CORPORATE AND INDIVIDUAL CAPACITIES, ARISING OUT OF ANY CAUSE WHATSOEVER (WHETHER SUCH CAUSE BE BASED IN CONTRACT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE) AND AGREE THAT IN THE EVENT OF A DISPUTE, FRANCHISEE AND THE CONTROLLING PRINCIPALS SHALL BE LIMITED TO THE RECOVERY OF ANY ACTUAL DAMAGES SUSTAINED BY THEM. IF ANY OTHER TERM OF THIS AGREEMENT IS FOUND OR DETERMINED TO BE UNCONSCIONABLE OR UNENFORCEABLE FOR ANY REASON, THE FOREGOING PROVISIONS OF WAIVER BY AGREEMENT OF PUNITIVE, EXEMPLARY, INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR OTHER DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS) SHALL CONTINUE IN FULL FORCE AND EFFECT.

(2) FRANCHISOR AND FRANCHISEE AND FRANCHISEE'S CONTROLLING PRINCIPALS HEREBY FURTHER IRREVOCABLY WAIVE ANY RIGHT TO A JURY TRIAL IN ANY ACTION ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER AGREEMENTS BETWEEN THEM OR THEIR RESPECTIVE AFFILIATES.

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

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

N. Survival. Any obligation of Franchisee or the Controlling Principals that contemplates performance of such obligation after termination or expiration of this Agreement or the transfer of any interest of Franchisee or the Controlling Principals therein, shall be deemed to survive such termination, expiration or transfer.

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

P. Gender. All references herein to the masculine, neuter or singular shall be construed to include the masculine, feminine, neuter or plural, where applicable.

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

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

S. No Third Party Beneficiaries. Except as expressly provided to the contrary herein, nothing in this Agreement is intended, nor shall be deemed, to confer upon any person or legal entity other than Franchisee, Franchisor, Franchisor's officers, directors and personnel and such of Franchisee's and Franchisor's respective successors and assigns as may be contemplated (and, as to Franchisee, authorized by Section 14), any rights or remedies under or as a result of this Agreement.

T. Expenses. Except as otherwise expressly provided herein, any action or obligation that Franchisee is required to undertake or may be required to undertake in this Agreement, or any action or obligation that Franchisor performs on Franchisee's behalf in accordance with the terms of this Agreement, shall be at Franchisee's sole expense. Franchisee agrees to pay or reimburse Franchisor for any such expenses on demand.

U. Agreement Effective Upon Execution by Franchisor. This Agreement shall not become effective until signed by an authorized officer of Franchisor.

## 20. ACKNOWLEDGMENTS

A. Independent Investigation. Franchisee acknowledges that it has conducted an independent investigation of the business venture contemplated by this Agreement and recognizes that the success of this business venture involves substantial business risks and will largely depend upon the ability of Franchisee. Franchisor expressly disclaims making, and Franchisee acknowledges that it has not received or relied on, any warranty or guarantee, express or implied, as to the potential volume, profits or success of the business venture contemplated by this Agreement.

B. Consultation with Advisors. Franchisee acknowledges that Franchisee has received, read and understands this Agreement and the related Attachments and agreements and that Franchisor has afforded Franchisee sufficient time and opportunity to consult with advisors selected by Franchisee about the potential benefits and risks of entering into this Agreement.



C. FTC Rule Compliance. Franchisee acknowledges that it received a complete copy of the disclosure document required by the Trade Regulation Rule of the Federal Trade Commission entitled “***Disclosure Requirements and Prohibitions Concerning Franchising***” and this Agreement and all related Attachments and agreements at least fourteen (14) calendar days prior to the Effective Date.

D. Reliance on Franchisor. Franchisee acknowledges that Franchisee is relying solely on Franchisor, and not on any Affiliated entities or parent companies related to Franchisor, with regard to Franchisor’s financial and other obligations under this Agreement, and no employee or other person speaking on behalf of, or otherwise representing, Franchisor has made any statement or promise to the effect that Franchisor’s Affiliated entities or parent companies guarantee Franchisor’s performance or financially back Franchisor.

—Signatures Appear on Following Page—

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed by its duly authorized representative as of the date first above written.

**FRANCHISOR:**

**Texas Roadhouse Development Corporation,**  
a Kentucky corporation

By: \_\_\_\_\_  
Gerald L. Morgan, President

**FRANCHISEE:**

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

**OWNERS (for purposes of Section 14.I):**

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

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

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

## CONTROLLING PRINCIPALS' GUARANTY AND ASSUMPTION AGREEMENT

This Guaranty and Assumption Agreement (this "**Guaranty**") is given this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, in consideration of, and as an inducement to Texas Roadhouse Development Corporation ("**Franchisor**") to enter into that certain Franchise Agreement dated \_\_\_\_\_ (the "**Agreement**") with \_\_\_\_\_ ("**Franchisee**"). Each of the undersigned and any other parties who sign counterparts of this Guaranty (referred to herein individually as a "**Guarantor**" and collectively as "**Guarantors**") are Controlling Principals (as defined in the Agreement) of Franchisee and will receive material benefit from the execution of the Agreement by Franchisor.

Each Guarantor hereby personally and unconditionally guarantees to Franchisor and its successors and assigns, that Franchisee will punctually perform its obligations and pay all amounts due under the Agreement, including, without limitation, amounts due for initial franchise fees, royalties, and Fund contributions and purchases of equipment, materials, and supplies.

Each Guarantor waives:

- (i) acceptance and notice of acceptance by Franchisor of the foregoing undertakings; and
- (ii) notice of demand for payment of any indebtedness or nonperformance of any obligations hereby guaranteed; and
- (iii) protest and notice of default to any party with respect to the indebtedness or nonperformance of any obligations hereby guaranteed; and
- (iv) any right he or she may have to require that an action be brought against Franchisee or any other person as a condition of liability; and
- (v) all rights to payments and claims for reimbursement or subrogation which he or she may have against Franchisee arising as a result of his or her execution of and performance under this Guaranty; and
- (vi) any and all other notices and legal or equitable defenses to which he or she may be entitled.

Each Guarantor consents and agrees that:

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

Each Guarantor also makes all of the covenants, representations, warranties and agreements of Controlling Principals set forth in the Franchise Agreement and is obligated to perform thereunder, including, without limitation, under Sections 6, 10, 14, 15, 18, 19.G, H, I, J, and K.

If Franchisor is required to enforce this Guaranty in an administrative, judicial or arbitration proceeding, and prevail in such proceeding, Franchisor will be entitled to reimbursement of Franchisor's costs and expenses, including, but not limited to, legal and accounting fees and costs, administrative, arbitrators' and expert witness fees, costs of investigation and proof of facts, court costs, other expenses of an administrative, judicial or arbitration proceeding and travel and living expenses, whether incurred prior to, in preparation for or in contemplation of the filing of any such proceeding. If Franchisor is required to engage legal counsel in connection with any failure by the undersigned to comply with this Guaranty, the Guarantors will reimburse Franchisor for any of the above-listed costs and expenses incurred by Franchisor.

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

CONTROLLING PRINCIPALS

\_\_\_\_\_  
\*Name \_\_\_\_\_

\_\_\_\_\_  
Name \_\_\_\_\_

\_\_\_\_\_  
Name \_\_\_\_\_

\_\_\_\_\_  
Name \_\_\_\_\_

\_\_\_\_\_  
†\*\*Name \_\_\_\_\_

\_\_\_\_\_  
Name \_\_\_\_\_

\_\_\_\_\_  
\* Denotes individual who is Franchisee's Operating Principal

\*\* Denotes any Managing Partner who has an ownership interest in Franchisee (if not also serving as the Operating Principal)

## Attachment A

### DEFINITIONS

Capitalized terms have the following meanings:

“**A- VI**” as defined in Section 12.B of this Agreement.

“**Adjusted Pre-Tax Earnings**” means an amount calculated according to GAAP and in the manner prescribed by Franchisor in the Operations Manual, equal to the Restaurant’s store level pre-tax earnings, after deductions for franchise fees, royalties, and accrued but unpaid rent, as adjusted by adding back any deductions for management fees, accounting fees, bonuses paid to the Restaurant’s Market Partner and other general and administrative expenses, restaurant pre-opening expenses, interest on Excess Debt (defined below); and by subtracting the amount, if any, that the total compensation paid to the Restaurant’s Managing Partner is less than the sum of (i) Forty-Five Thousand and 00/100 Dollars (\$45,000.00) plus (ii) Ten Percent (10%) of the Restaurant’s store level pre-tax earnings, and the amount by which current annualized interest payments on Franchisee’s Debt exceeds the actual interest payments on Franchisee’s Debt during the Measurement Period.

“**Affiliate**” means, with respect to a named person, any person or entity that is controlled by, controlling, or under common control with the named person.

“**Agreement**” is defined in the Preamble to this Agreement.

“**Anti-Terrorism Laws**” means Executive Order 13224 issued by the President of the United States, the Terrorism Sanctions Regulations (Title 31, Part 595 of the U.S. Code of Federal Regulations), the Foreign Terrorist Organizations Sanctions Regulations (Title 31, Part 597 of the U.S. Code of Federal Regulations), the Cuban Assets Control Regulations (Title 31, Part 515 of the U.S. Code of Federal Regulations), the USA PATRIOT Act, and all other present and future federal, state, and local laws, ordinances, regulations, policies, lists, and any other requirements of any Governmental Authority (including, without limitation, the United States Department of Treasury Office of Foreign Assets Control (a.k.a. OFAC)) addressing or in any way relating to terrorist acts and acts of war.

“**Approved Location**” means the specific street address of the Restaurant location approved by Franchisor.

“**Area of Primary Responsibility**” as defined in Section 2.D of this Agreement and Attachment A.

“**Assigned Area**” means assigned primary area of operation and defined in Attachment A.

“**Blocked**” as defined in Section 19.G of this Agreement.

“**Business Day**” means any day other than Saturday, Sunday or national holidays in the U.S.

“**CAN SPAM Act of 2003**” means the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003.

“**Common-owned**” means all Restaurants owned by Franchisee and its Affiliates.

**“Company Pro-Forma Adjusted Pre-Tax Earnings”** means the pre-tax income of the Public Company, increased by adding general and administrative expenses, Market Partner bonuses, nonrecurring items and restaurant pre-opening expenses.

**“Competitive Business”** means any full-service casual dining restaurant whose menu primarily features steak and ribs (including, by the way of example and not limitation, Outback Steakhouse, Longhorn Steakhouse, Lonestar Steakhouse, Logan’s Roadhouse, Ryan’s, Western Sizzler, Texas Steakhouse, Colton’s, Saltgrass and/or Golden Corral).

**“Confidential Information”** means any and all information, knowledge, know-how, techniques and any materials used in or related to the System which Franchisor provides to Franchisee, or which Franchisee or its Principals or employees develop, in connection with this Agreement or the operation of the Restaurant hereunder, including, without limitation, any actual or potential recipes, menu items, suppliers, products, services, systems, applications, procedures, or methods of advertising, marketing, training, inventory or financial controls, sales data, pricing terms, management, service or procurement, and any confidential matter regarding the business of Franchisor or any of its Affiliates.

**“Controlling Principals”** shall include, collectively and individually, any Franchisee’s Principal who has (i) ownership or control of the power to vote ten percent (10%) or more of the outstanding equity interests of any such entity, (ii) the control in any manner of the election of more than one director or trustee (or persons exercising similar functions) of such entity, or (iii) the possession of the power to direct or cause the direction of the management and/or policies of such entity, whether through the ownership of voting securities, by contract, or otherwise.

**“Cooperative”** is defined in Section 8.D of this Agreement.

**“Deceased”** means defined in Section 14.E.(1) of this Agreement.

**“Designated Area”** means within the non-exclusive geographic area defined in Attachment A.

**“Digital Marketing Platforms”** means social media accounts, blogging and vlogging accounts, file or media sharing accounts, applications, mobile applications, keyword or ad word purchasing programs, e-mail marketing campaigns, metaverse or similar virtual-reality space, or other means of digital advertising on the internet or any electronic communications network.

**“Disclosure Requirements and Prohibitions Concerning Franchising”** means disclosure document required by the Trade Regulation Rule of the Federal Trade Commission.

**“Effective Date”** means the date an authorized representative of Franchisor executes this Agreement. The Effective Date shall be entered in the space provided in the preamble to this Agreement.

**“Environmental Audit”** means a Phase I environmental site assessment of the site as defined in Section 2.C.1 of this Agreement.

**“Excess Debt”** means the amount, if any, by which all debt secured by the Restaurant’s land, building, improvements and Personal Property (“Franchisee’s Debt”) exceeds the sum of 85% of the fair market value of the Restaurant’s land, building and improvements secured by debt.

**“FACTA”** means the Fair and Accurate Credit Transaction Act.

“**Fair Market Value**” means the five (5)-day average closing price per share of TXRH Shares immediately prior to the Roll-Up.

“**Force Majeure**” means acts of God, strikes, lockouts or other industrial disturbances, war, riot, acts of terrorism, epidemic, fire or other catastrophe or other forces beyond Franchisee’s control.

“**Franchisee**” is defined in the Preamble to this Agreement.

“**Franchisee’s Debt**” means the amount, if any, by which all debt secured by the Restaurant’s land, building, improvements and Personal Property.

“**Franchisee’s Webpage**” is defined in Section 8.H.(4) of this Agreement.

“**Franchisor**” is defined in the Preamble to this Agreement.

“**GAAP**” means United States generally accepted accounting principles in effect from time to time.

“**Indemnities**” is defined in Section 15.A of this Agreement.

“**Intranet**” means a closed communications network.

“**Lettered stock**” is defined in Section 14.I.(3) of this Agreement.

“**Local Marketing**” means Franchisee shall spend, during each month throughout the term of this Agreement, two percent (2%) of the Royalty Sales of the Restaurant on marketing for the Restaurant in its Area of Primary Responsibility.

“**Location**” means the specific street address of the Restaurant location approved by Franchisor.

“**Losses and expenses**” as defined in Section 15.D.(2) of this Agreement.

“**Managers**” is defined in Section 6.G.(1) of this Agreement.

“**Managing Partner**” is defined in Section 6.D of this Agreement.

“**Manuals**” means the manuals, written guidelines or other materials that Franchisor has developed which relate to the procedures, methods, Standards, and specifications for developing and operating Texas Roadhouse Restaurants, as they may be modified from time to time by Franchisor. The term “Manuals” also includes alternative or supplemental means of communicating such information to Franchisee, including electronically, as well as by on-line tutorials, bulletins, audio tapes, and compact discs. The term “Manuals” does not refer to a single specific compilation of information, but rather to Franchisor’s then-current Standards, specifications, instructions, requirements, methods and procedures for the establishment, management and operation of a Texas Roadhouse Restaurant, which may exist in numerous formats and locations. Manuals may include, without limitation, operations manuals, brand standards/brand requirements manuals, marketing and sales manuals, among others.

“**Market Partner**” is defined in Section 6.E of this Agreement.

“**Marketing Fund**” or “**Fund**” is defined in Section 8.C of this Agreement.

“**Marks**” is defined in Recital C of this Agreement.

**“Measurement Period”** means the four (4) full calendar quarters prior to the delivery of the Roll-Up Notice (defined below). However, if Franchisee’s Restaurant has been open for at least five full fiscal months, but less than fourteen (14) full fiscal months, the Restaurant’s Adjusted Pre-Tax Earnings shall be calculated on an annualized basis, based upon the number of full fiscal months the Restaurant has been open (excluding its first two (2) full fiscal months of operation). Further, if the Restaurant has not opened or has been open for less than five (5) full fiscal months, the its Adjusted Pre-Tax Earnings shall be deemed to be the simple average adjusted pre-tax earnings (calculated in the same manner as Adjusted Pre-Tax Earnings) of all Texas Roadhouse Restaurants owned in whole or in part by the Public Company that have been open for at least four full calendar quarters prior to the delivery of the Roll-Up Notice.

**“Opening Date”** means the date the Restaurant opens for business to the public as defined in Section 2.G.(1) and Attachment A to this Agreement.

**“Operating Principal”** is defined in Section 6.C of this Agreement.

**“Owners”** means all owners of equity interests in Franchisee.

**“PCI DSS”** means the Payment Card Industry Data Security Standards council, or its successor.

**“Permanent disability”** means any physical, emotional or mental injury, illness or incapacity which would prevent a person from performing the obligations set forth in this Agreement or in the guarantee of this Agreement for at least ninety (90) consecutive days and from which condition recovery within ninety (90) days from the date of determination of disability is unlikely, as defined in Section 14.E.

**“Personal Data”** means any information about an identified or identifiable natural person, including profiles and guest preferences assembled from any loyalty program.

**“Personal Property”** means furniture, fixtures, equipment and signage used in the Restaurant and owned by Franchisee as defined in Section 14.A.(5)(c).

**“Principals”** shall include, collectively and individually, Franchisee’s spouse, if Franchisee is an individual, all officers and directors of Franchisee (including the officers and directors of any general partner of Franchisee) whom Franchisor designates as Franchisee’s Principals, all holders of an ownership interest in Franchisee and in any entity directly or indirectly controlling Franchisee, and any other person or entity controlling, controlled by, or under common control with Franchisee. The initial Franchisee’s Principals shall be listed in Attachment C to this Agreement.

**“Privacy Laws”** means any applicable laws that govern the collection, protection, use, storage, retention, transfer, or other processing of Personal Data, including: (a) California Consumer Privacy Act, California Civil Code § 1798.100 et seq., (with any implementing regulations and as may be amended from time to time); (b) Payment Card Industry Data Security Standards; and (c) any other applicable laws and regulations in any jurisdiction where the Texas Roadhouse Restaurants operate as a business.

**“Publicly-held corporation”** means a corporation registered pursuant to Section 12 of the Securities Exchange Act of 1934, as amended, or a corporation subject to the requirements of Section 15(d) of such Act.

**“Restaurant”** and **“Restaurants”** is defined in the preamble of this Agreement.

**“Roll-up”** as defined in Section 14.I.1 of this Agreement.

**“Roll-up Notice”** means as defined in Section 14.I.(6) of this Agreement.



“**Royalty Sales**” means the total selling price of all services and products and all income of every other kind and nature related to the Restaurant, whether for cash or credit and regardless of collection in the case of credit as defined in Section 4.E of this Agreement.

“**Standards**” means the brand standards, requirements, specifications, policies and procedures of the Texas Roadhouse System, as specified from time to time by Franchisor in the Manuals, or otherwise in writing.

“**Section 368**” means Section 368 of the Internal Revenue Code.

“**System**” means the business system for establishing and operating Texas Roadhouse Restaurants, the distinguishing characteristics of which include, without limitation, distinctive exterior and interior design, decor, color scheme, and furnishings; special recipes and menu items; uniform standards, specifications, and procedures for operations; quality and uniformity of products and services offered; procedures for inventory, management and financial control; training and assistance; and marketing and promotional programs; all of which may be changed, improved, and further developed by Franchisor from time to time.

“**Taxes**” means any present or future taxes, including, without limitation, sales taxes, excise taxes, withholding taxes or income taxes, levies, imposts, duties, regulatory fees or other charges of whatsoever nature, including any interest or penalties thereon, imposed by any government or political subdivision of such government on or relating to the operation of the franchised business, the payment of monies, or the exercise of rights granted pursuant to this Agreement, except Taxes imposed on or measured by Franchisor’s net income.

“**Texas Roadhouse Restaurants**” as defined in Recital A of this Agreement.

“**Trade Dress**” is defined in Recital B of this Agreement.

“**TXRH**” means Texas Roadhouse, Inc. and is defined in Section 14.I of this Agreement.

“**TXRH Shares**” means TXRH Class A common stock and is defined in Section 14.I of this Agreement.

“**Working Capital**” means current assets less current liabilities.

“**Work Product**” means If Franchisee, its Principals, or its employees develop any new concept, process, recipe, menu item, improvement, invention, or work of authorship in the operation or promotion of the Restaurant, alone or jointly with others and within or without the facilities of the Restaurant, before, during or after normal business hours.

**Attachment B**

**SELECTED TERMS**

1. DESIGNATED AREA

Pursuant to Section 1.B of the Franchise Agreement, the non-exclusive geographic area within which the Restaurant shall be located (the “*Designated Area*”) shall be:

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2. APPROVED LOCATION

Pursuant to Section 2.C of the Franchise Agreement, the Restaurant shall be located at the following Approved Location:

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3. **ASSIGNED AREA (Not to exceed ten (10) mile radius centered from the Approved Location of the Restaurant)**

Pursuant to Section 1.C of the Franchise Agreement, Franchisee’s primary area of operation within which Franchisee is granted certain rights as set forth in Section 1.C (the “**Assigned Area**”) shall be as described and as depicted on the map attached hereto and incorporated herein.

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4. AREA OF PRIMARY RESPONSIBILITY

Pursuant to Section 1.D of the Franchise Agreement, Franchisee’s non-exclusive area of primary responsibility for marketing and promotional purposes (the “*Area of Primary Responsibility*”) shall be:

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5. OPENING DATE

Pursuant to Section 2.G of the Franchise Agreement, the Opening Date of the Restaurant is \_\_\_\_\_, 20\_\_\_\_.

**FRANCHISOR:**

**TEXAS ROADHOUSE DEVELOPMENT  
CORPORATION**, a Kentucky corporation

By: \_\_\_\_\_  
Gerald L. Morgan, President

**FRANCHISEE:**

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

## **Attachment C**

### **LEASE TERMS**

Unless otherwise agreed by Franchisor in writing, the lease for the Restaurant premises shall contain substantially the following terms:

(1) During the Term of the Franchise Agreement, the Premises will be used only for the operation of the Restaurant.

(2) Landlord consents to Franchisee's use of such marks and neon signs, border neon, exterior roof and building material, decor items, color schemes and related components of the Texas Roadhouse restaurant system as Franchisor may prescribe for the Restaurant.

(3) Landlord agrees to furnish Franchisor with copies of any and all default notices sent to Franchisee pertaining to the Lease and the Premises, at the same time that such default notices are sent to Franchisee.

(4) Franchisor will have the right to enter the Premises to make any modification or alteration necessary to protect the Texas Roadhouse restaurant system and marks. Franchisor will also have the right, but not the obligation to cure any default under the Franchise Agreement or any development agreement entered into between Franchisor and Franchisee or under the Lease, without being guilty of trespass or any other crime or tort.

(5) Franchisee will be permitted to assign the Lease to Franchisor, its Affiliates or an approved Texas Roadhouse franchisee upon the expiration or earlier termination of the Franchise Agreement or upon any purchase of Franchisee's assets under Section 15 of the Franchise Agreement, and the Landlord hereby consents to (and agrees to provide written consent to) such assignment and agrees not to impose or assess any assignment fee or similar charge or accelerate or increase rent under the Lease in connection with such assignment.

(6) In the event of such assignment, Franchisor or any Affiliate or other Texas Roadhouse franchisee designated by Franchisor may agree to assume from the date of assignment all obligations of Franchisee remaining under the Lease, and in such event Franchisor or any Affiliate will assume Franchisee's occupancy rights, and the right to sublease the Premises, for the remainder of the term of the Lease

(7) Franchisee will not assign the Lease or renew or extend the term thereof without the prior written consent of Franchisor.

(8) Landlord and Franchisee will not amend or otherwise modify the Lease in any manner that could materially affect any of the foregoing requirements without the prior written consent of Franchisor.

(9) Landlord acknowledges and agrees that Franchisor does not have any liability, obligation, or commitment to Landlord.

(10) These terms will supersede any conflicting terms of the Lease.

**Attachment D**

**STATEMENT OF OWNERSHIP INTERESTS**

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

Name	Percentage of Ownership	Nature of Interest

- B. The following is a list of all of Franchisee’s Principals who are not signing the Controlling Principals Guaranty and Assumption Agreement, each of whom shall execute the Confidentiality Agreement and Ancillary Covenants Not to Compete substantially in the form set forth in Attachment D:
- C. The following is a list of all of Franchisee’s Controlling Principals, each of whom shall execute the Controlling Principals Guaranty and Assumption Agreement following the signature page:
- D. Name of Managing Partner, if different from Operating Principal, and description of his or her cash flow interest and ownership interest in the Restaurant.

## Attachment E

### **CONFIDENTIALITY AGREEMENT AND ANCILLARY COVENANTS NOT TO COMPETE**

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, between Texas Roadhouse Development Corporation, a Kentucky corporation ("**Franchisor**"), \_\_\_\_\_ ("**Franchisee**") and \_\_\_\_\_ ("**Covenantor**," including, without limitation, all Managing Partners executing this Agreement)

#### RECITALS

WHEREAS, Franchisor has developed or has acquired the right to use and license the use of a distinctive system (the "**System**") for the development and operation of full-service restaurants under the name and mark Texas Roadhouse ("**Restaurants**"); and

WHEREAS, the System includes, but is not limited to, certain trade names, service marks, trademarks, logos, emblems and indicia of origin, including, but not limited to, the mark "**Texas Roadhouse**" and such other trade names, service marks, trademarks, logos, insignia, slogans, emblems, designs and commercial symbols as Franchisor may develop in the future to identify for the public the source of services and products marketed under the System ("**Marks**") and certain information, knowledge, know-how, techniques and any materials used in or related to the System which Franchisor provides to Franchisee, or which Franchisee or its Principals (as defined in the Franchise Agreement, described below) or employees develop, in connection with the Franchise Agreement or the operation of the Restaurant thereunder, including, without limitation, any actual or potential recipes, menu items, suppliers, products, services, systems, applications, procedures, or methods of advertising, marketing, training, inventory or financial controls, management, service or procurement and any confidential matter regarding the business of Franchisor or any of its Affiliates ("**Confidential Information**"); and

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

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

WHEREAS, Franchisor has granted Franchisee the limited right to operate a Restaurant using the System, the Marks and the Confidential Information for the period defined in the Franchise Agreement made and entered into on \_\_\_\_\_, 20\_\_ (the "**Franchise Agreement**"), by and between Franchisor and Franchisee; and

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

WHEREAS, it will be necessary for certain Managing Partners, Market Partners, and other managers, employees, agents, independent contractors, officers, directors and interest holders of Franchisee, or any entity having an interest in Franchisee ("**Covenantor**") to have access to and to use some or all of the Confidential Information in the management and operation of Franchisee's business using the System; and

WHEREAS, Franchisee has agreed to obtain from those covenanters' written agreements protecting the Confidential Information and the System against unfair competition; and

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

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

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

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

### **Confidentiality Agreement**

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

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

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

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

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

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

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

8. If Covenantor develops any new concept, process, recipe, menu item, improvement, invention, or work of authorship in the operation or promotion of the Restaurant, alone or jointly with others and within or without the facilities of the Restaurant, before, during or after normal business hours ("**Work**

**Product**) Covenantor shall promptly notify Franchisee and Franchisor and shall provide them with all necessary related information, without compensation. Covenantor acknowledges that any such Work Product will inure to the benefit of and become the property of Franchisor, and Franchisor may use or disclose such Work Product to its Franchisees and to its Affiliates, successors and assigns, as it determines to be appropriate. Covenantor shall execute in favor of Franchisor an assignment of (and Covenantor does hereby assign) his or her entire right, title, and interest in and to the Work Product and agrees to execute such other documents and instruments as Franchisor may request. Franchisee and the Controlling Principals further agree to cooperate to the extent and in the manner reasonably requested by Franchisor in the prosecution or defense of any litigation or other proceedings involving any Work Product, but all of Covenantor's reasonable expenses in connection therewith shall be paid by Franchisor. If a copyright registration or patent is filed by or on behalf of Covenantor within one (1) year following the earlier of the termination or expiration of the Franchise Agreement or the time at which Covenantor ceases to be associated with Franchisee, describing a work which relates to the business of Franchisor, it will be conclusively presumed that such work is to be treated as a Work Product for all purposes hereunder.

### **Covenants Not to Compete**

1. In order to protect the goodwill of the System and the confidentiality and value of the Confidential Information, and in consideration for the disclosure to Covenantor of the Confidential Information, Covenantor further agrees and covenants as follows:

a. Not to divert, or attempt to divert, directly or indirectly, any business, business opportunity, or customer of Franchisee's Restaurant to any Competitive Business (as defined in Attachment A of the Franchise Agreement) of any Texas Roadhouse open or proposed.

b. Not to employ, or seek to employ, any person who is at the time or was within the preceding twelve (12) months employed by Franchisor or any Franchisee or developer of Franchisor, or otherwise directly or indirectly induce such person to leave that person's employment except as may occur in connection with Franchisee's employment of such person if permitted under the Franchise Agreement.

\*c. Except for the Restaurant described in the Franchise Agreement, not to directly or indirectly, for himself or through, on behalf of, or in conjunction with any person, partnership or corporation, without the prior written consent of Franchisor, own, maintain, operate, engage in or have any financial or beneficial interest in (including any interest in corporations, partnerships, trusts, unincorporated associations or joint ventures), advise, assist or make loans to, any Competitive Business (as defined in Attachment A of the Franchise Agreement) located within (i) the United States, (ii) United States territories or commonwealths, or (iii) any other country, province, state or geographic area in which Franchisor has used, sought registration of or registered the same or similar Marks or operates or licenses others to operate a business under the same or similar Marks.

2. In further consideration for the disclosure to Covenantor of the Confidential Information and to protect the System, Covenantor agrees and covenants that for two (2) years following the earlier of the expiration or termination (whether as a result of a sale or transfer to Franchisor or otherwise), unless the termination is effected by Franchisee with cause pursuant to Section 17.C of the Agreement or transfer of all of Franchisee's interest in the Franchise Agreement or the termination of his association with or employment by Franchisee, Covenantor will not without the prior written consent of Franchisor:

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\* May be deleted if Franchisor does not require Franchisee to obtain the execution of this covenant by Covenantor. See Section 10.F. of the Franchise Agreement.



a. Divert or attempt to divert, directly or indirectly, any business, business opportunity or customer of the Restaurant to any competitor or Competitive Business (as defined in Attachment A of the Franchise Agreement).

b. Employ, or seek to employ, any person who is at the time or was within the preceding twelve (12) months employed by Franchisor or any Franchisee or developer of Franchisor, or otherwise directly or indirectly induce such persons to leave that person's employment.

c. Directly or indirectly, for himself or through, on behalf of or in conjunction with any person, partnership or corporation, own, maintain, operate, engage in or have any financial or beneficial interest in (including any interest in corporations, partnerships, trusts, unincorporated associations or joint ventures), advise, assist or make loans to, any Competitive Business (as defined in Attachment A of the Franchise Agreement), which business is, or is intended to be located (i) at the Approved Location (as such term is defined in the Franchise Agreement), (ii) within the Assigned Area (as such term is defined in the Franchise Agreement), or (iii) within a ten (10)-mile radius of any Texas Roadhouse Restaurant or other Texas Roadhouse facility in existence or under construction at any given time during such period.

### **Miscellaneous**

1. Covenantor agrees and covenants that during the term and for two (2) years following the earlier of the expiration or termination (whether as a result of a sale or transfer to Franchisor or otherwise), Covenantor will take no action which is intended, or would reasonably be expected, to materially harm Franchisor, any affiliate of Franchisor, their respective businesses, officers, directors or employees, harm the reputation of any of the foregoing persons or entities, or which would reasonably be expected to lead to unwanted or unfavorable publicity to any of the foregoing persons or entities.

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

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

4. Covenantor agrees to pay all expenses (including court costs and reasonable attorneys' fees) incurred by Franchisor and Franchisee in enforcing this Agreement. Notwithstanding the foregoing, Franchisor may recover its costs incurred in enforcing this Agreement from Franchisee without the necessity of first making demand upon or bringing an action against Covenantor.

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

**6. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF KENTUCKY, WITHOUT REFERENCE TO KENTUCKY CHOICE OF LAW PRINCIPLES. COVENANTOR HEREBY IRREVOCABLY SUBMITS HIMSELF TO THE JURISDICTION OF THE STATE COURTS OF JEFFERSON COUNTY, KENTUCKY AND THE FEDERAL**

**DISTRICT COURTS FOR THE WESTERN DISTRICT OF KENTUCKY. COVENANTOR HEREBY WAIVES ALL QUESTIONS OF PERSONAL JURISDICTION OR VENUE FOR THE PURPOSE OF CARRYING OUT THIS PROVISION. COVENANTOR HEREBY AGREES THAT SERVICE OF PROCESS MAY BE MADE UPON HIM IN ANY PROCEEDING RELATING TO OR ARISING UNDER THIS AGREEMENT OR THE RELATIONSHIP CREATED BY THIS AGREEMENT BY ANY MEANS ALLOWED BY KENTUCKY OR FEDERAL LAW. COVENANTOR FURTHER AGREES THAT VENUE FOR ANY PROCEEDING RELATING TO OR ARISING OUT OF THIS AGREEMENT SHALL BE JEFFERSON COUNTY, KENTUCKY; PROVIDED, HOWEVER, WITH RESPECT TO ANY ACTION WHICH INCLUDES INJUNCTIVE RELIEF OR OTHER EXTRAORDINARY RELIEF, FRANCHISOR OR FRANCHISEE MAY BRING SUCH ACTION IN ANY COURT IN ANY STATE WHICH HAS JURISDICTION.**

7. The parties acknowledge and agree that each of the covenants contained herein are reasonable limitations as to time, geographical area, and scope of activity to be restrained and do not impose a greater restraint than is necessary to protect the goodwill or other business interests of Franchisor. The parties agree that each of the foregoing covenants shall be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant in this Agreement is held unreasonable or unenforceable by a court or agency having valid jurisdiction in any unappealed final decision to which Franchisor is a party, Covenantor expressly agrees to be bound by any lesser covenant subsumed within the terms of such covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated in and made a part of this Agreement. The time period relating to the obligations set forth in this Agreement will be tolled for any period of noncompliance.

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

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

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

Texas Roadhouse Development Corporation  
6040 Dutchmans Lane  
Louisville, Kentucky 40205  
Attention: Legal Department  
Facsimile: (502) 426-3274

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

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

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

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

Any notices sent by personal delivery shall be deemed given upon receipt. Any notices given by facsimile or electronic mail shall be deemed given upon transmission, provided confirmation is made as provided above. Any notice sent by expedited delivery service or registered or certified mail shall be deemed given three (3) Business Days after the time of mailing. Any change in the foregoing addresses shall be effected by giving fifteen (15) days written notice of such change to the other parties. Business Day for the purpose of this Agreement means any day other than Saturday, Sunday or national holidays in the U.S.

10. The rights and remedies of Franchisor under this Agreement are fully assignable and transferable and shall inure to the benefit of its respective Affiliates, successors and assigns. The respective obligations of Franchisee and Covenantor hereunder may not be assigned by Franchisee or Covenantor, without the prior written consent of Franchisor.

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

**FRANCHISOR:**

**Texas Roadhouse Development Corporation,**  
a Kentucky corporation

By: \_\_\_\_\_  
Gerald L. Morgan, President

**FRANCHISEE:**

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

**COVENANTOR\* (including, without limitation, all Managing Partners and Market Partners executing this Agreement):**

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

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

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

---

\* All Managing Partners of the Restaurant who are not otherwise signing the Franchise Agreement as a Controlling Principal must execute this Agreement as a Covenantor.

## Attachment F

### SOFTWARE LICENSE AGREEMENT

This Software License Agreement (this “*Software License*”) is entered into between Texas Roadhouse Development Corporation, a Kentucky corporation (“*Franchisor*”), and \_\_\_\_\_ (“*Franchisee*”) pursuant to a Franchise Agreement dated \_\_\_\_\_, 20\_\_\_\_ (“*Franchise Agreement*”) under which Franchisee will operate a full-service Texas Roadhouse restaurant (the “*Restaurant*”) located at \_\_\_\_\_.

1. Franchisor hereby grants to Franchisee a nonexclusive, nonassignable license to use the computer programs, in object code form (the “*Software*”), listed in the schedule to this Software License. The schedule may be updated from time to time by Franchisor to include enhancements, upgrades or replacements (the “*Enhancements*”) to the Software, which Franchisor will make available to Franchisee from time to time at a reasonable cost.

2. Franchisee shall use the Software only in the operation of the Restaurant at the Location of the Restaurant indicated above. Franchisee may not modify, copy or reproduce in any form all or any part of the Software without the prior written consent of Franchisor, and in such event solely to the extent required for use of the Software in the operation of the Restaurant. Franchisee shall not make available the Software, the user and operating manuals thereto, or any copy thereof to any party except as described below in paragraph 4. Franchisee shall not reverse assemble, reverse compile or otherwise recreate the Software.

3. All copies of the Software, including any produced by Franchisee with Franchisor’s consent, are and shall be the sole and exclusive property of Franchisor or authorized third parties during and after the term of this Software License. Franchisee acknowledges and agrees that Franchisor may secure all or any part of the Software from third parties. Franchisee agrees to execute and deliver to Franchisor any further contracts, agreements or other documents reasonably required by Franchisor in order to secure its compliance with any agreement with such other parties.

4. Franchisee understands and acknowledges that the Software contains Franchisor’s trade secrets and agrees, during the term of this Software License and thereafter, not to communicate, divulge or use the Software other than in the operation of the Restaurant by Franchisee and its employees. Franchisee shall divulge and allow access to the Software only to its employees who must have access to it in connection with their employment in the Restaurant. At Franchisor’s request, Franchisee shall require and obtain execution of covenants concerning the confidentiality of the Software from any persons employed by Franchisee who have access to the Software. These covenants shall be in a form substantially similar to the confidentiality covenants contained in Attachment D to the Franchise Agreement.

5. Franchisee shall exercise reasonable precautions, no less rigorous than those Franchisee uses to protect its own confidential information, to protect the confidentiality of the Software and the user and operating manuals thereto, which precautions shall include, at a minimum, giving instructions to Franchisee’s employees who will have access to the Software and the user and operating manuals thereto that the same are proprietary to, and the trade secrets of, Franchisor or such third parties. Franchisee shall not remove or alter any designations that Franchisor or such third parties have included in the Software and the user and operating manuals thereto that indicate such material is the proprietary property of Franchisor or such third parties.

6. Franchisee agrees to notify Franchisor immediately of the existence of any unauthorized knowledge, possession or use of the Software or of any part thereof.

7. Franchisee acknowledges and agrees that the Software and user and operating manuals thereto are the valuable property and of Franchisor or other authorized parties, that any violation by Franchisee of the provisions of this Software License would cause Franchisor or such other parties irreparable injury for which they would have no adequate remedy at law, and that, in addition to any other remedies which Franchisor may have, it shall be entitled to preliminary and other injunctive relief against any such violation.

8. The term of this Software License shall be co-extensive with the term of the Franchise Agreement, including any renewal of the Franchise Agreement.

9. Expiration or termination of the Franchise Agreement for whatever reason shall automatically terminate this Software License and the right granted by it to use the Software, without notice to Franchisee. If Franchisor's license to any of the Software secured from third parties should terminate, then this Software License shall automatically terminate as to such Software and Franchisee shall comply with the provisions of Section 10 in connection with such Software. In addition, Franchisor may terminate this Software License upon the failure by Franchisee to comply with any of the terms and conditions herein, by giving Franchisee written notice of termination stating the nature of the breach at least thirty (30) days prior to the effective date of termination; provided that Franchisee may avoid termination by immediately initiating a remedy to cure such default and curing it to Franchisor's satisfaction within the thirty (30)-day period and by promptly providing proof thereof to Franchisor. If any such default is not cured within that time, or such longer period as applicable law may require, this Software License shall terminate without further notice to Franchisee effective immediately upon expiration of the thirty (30)-day period or such longer period as applicable law may require.

10. Upon the expiration or termination of this Software License or upon the expiration or termination of the Franchise Agreement, whichever shall occur earlier, Franchisee shall immediately deliver to Franchisor all copies of the Software then in Franchisee's possession or control and erase the Software from Franchisee's computer system, and shall immediately cease to use the Software.

11. Franchisor will replace without charge any copies of the Software provided under this Software License which have defects in materials and workmanship that are not caused by Franchisee's misuse or unauthorized modification of the Software. This replacement shall be Franchisee's sole and exclusive remedy as to the Software.

**12. EXCEPT FOR THE LIMITED WARRANTY DESCRIBED ABOVE, THERE ARE NO WARRANTIES GRANTED TO FRANCHISEE OR ANY OTHER PERSON OR ENTITY FOR THE SOFTWARE, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE; ALL SUCH WARRANTIES ARE EXPRESSLY AND SPECIFICALLY DISCLAIMED.**

**13. FRANCHISEE IS SOLELY RESPONSIBLE FOR DETERMINING ITS DESIRED RESULTS FROM THE USE OF THE SOFTWARE, FOR EVALUATING THE SOFTWARE'S CAPABILITIES AND FOR SUCCESSFULLY OPERATING THE SOFTWARE. IN NO EVENT SHALL FRANCHISOR BE RESPONSIBLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES, OR FOR LOST DATA OR LOST PROFITS TO FRANCHISEE OR ANY OTHER PERSON OR ENTITY, WHETHER OR NOT DUE TO FRANCHISOR'S NEGLIGENCE, ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE, EVEN IF FRANCHISOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OCCURRING. IN THE EVENT THAT ANY OTHER TERM OF THIS SOFTWARE LICENSE IS FOUND OR DETERMINED TO BE UNCONSCIONABLE OR UNENFORCEABLE FOR ANY REASON, THE FOREGOING PROVISION OF WAIVER BY**

**AGREEMENT OF DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OR FOR LOST DATA OR LOST PROFITS SHALL CONTINUE IN FULL FORCE AND EFFECT.**

**14. THIS SOFTWARE LICENSE SHALL BE GOVERNED BY AND CONSTRUED UNDER THE LAWS OF THE COMMONWEALTH OF KENTUCKY (EXCEPT FOR KENTUCKY CHOICE OF LAW RULES).**

15. If any term herein is declared to be void or unenforceable by a court of competent jurisdiction, such declaration shall have no effect on the other terms of this Software License, which will remain in effect and fully enforceable.

16. Franchisee agrees to pay any sales, use, ad valorem, personal property and general intangibles tax and any registration fees arising out of this Software License and the transactions contemplated herein, except for any taxes imposed upon the gross income of Franchisor.

17. Franchisee may not sell, lease, assign, sublicense or otherwise transfer any of its rights under this Software License without the prior written consent of Franchisor.

18. Notice under this Software License shall be provided as indicated in Section 19 of the Franchise Agreement.

19. The terms of this Software License are incorporated into the Franchise Agreement by reference. This Software License and related provisions of the Franchise Agreement constitute the entire agreement of the parties with respect to the subject matter hereof, and supersede all related prior and contemporaneous agreements between the parties.

IN WITNESS WHEREOF, the parties have duly executed and delivered this Software License on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**FRANCHISOR:**

**Texas Roadhouse Development Corporation,**  
a Kentucky corporation

By: \_\_\_\_\_  
Gerald L. Morgan, President

**FRANCHISEE:**

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

**SCHEDULE TO SOFTWARE LICENSE AGREEMENT**

**Software**



**Attachment G**

**ELECTRONIC DEBT AUTHORIZATION  
Authorization Agreement for Direct Payments (ACH Debits)**

Company Name: \_\_\_\_\_ Company ID Number: \_\_\_\_\_

I (we) hereby authorize \_\_\_\_\_, hereinafter called COMPANY, to initiate debit entries to my (our)  Checking Account/  Savings Account (select one) indicated below at the depository financial institution named below, hereafter called DEPOSITORY, and to debit the same to such account. I (we) acknowledge that the origination of ACH transactions to my (our) account must comply with the provisions of U.S. law.

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

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

Routing Number: \_\_\_\_\_ Account Number: \_\_\_\_\_

This authorization is remain in full force and effect until COMPANY has received written notification from me (or either of us) or its termination in such time and in such manner as to afford COMPANY and DEPOSITOR a reasonable opportunity to act on it.

Name(s): \_\_\_\_\_ ID Number: \_\_\_\_\_  
(Please Print)

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

**NOTE: DEBIT AUTHORIZATIONS MUST PROVIDE THAT THE RECEIVER MAY REVOKE THE AUTHORIZATION ONLY BY NOTIFYING THE ORIGINATOR IN THE MANNER SPECIFIED IN THE AUTHORIZATION**

**Attachment H**

**STATE SPECIFIC AMENDMENTS**

**AMENDMENT TO TEXAS ROADHOUSE DEVELOPMENT CORPORATION  
FRANCHISE AGREEMENT  
FOR THE STATE OF CALIFORNIA**

The Texas Roadhouse Franchise Agreement between \_\_\_\_\_ (“**Franchisee**” or “**You**”) and Texas Roadhouse Development Corporation (“**Franchisor**”) dated \_\_\_\_\_, 20\_\_ (the “**Agreement**”) shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the “**Amendment**”):

CALIFORNIA LAW MODIFICATIONS

1. The California Department of Corporations requires that certain provisions contained in franchise documents be amended to be consistent with California law, including the California Franchise Investment Law, CAL. CORP. CODE Section 31000 et seq., and the California Franchise Relations Act, CAL. BUS. & PROF. CODE Section 20000 et seq. To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. California Business and Professions Code Sections 20000 through 20043 provide rights to the franchisee concerning termination or non-renewal of a franchise. If the franchise agreement contains a provision that is inconsistent with the law, the law will control.
- b. The Agreement provides for termination upon bankruptcy. This provision may not be enforceable under federal bankruptcy law (11 U.S.C.A. Sec. 101 et seq.).
- c. The Agreement contains a covenant not to compete which extends beyond the expiration or termination of the franchise. This provision may not be enforceable under California law.
- d. The Agreement requires application of the laws of Kentucky. This provision may not be enforceable under California law.
- e. The Agreement contains a liquidated damages clause. Under California Civil Code Section 1671, certain liquidated damages clauses are unenforceable.

IN WITNESS WHEREOF, Franchisee on behalf of itself and its owners acknowledges that it has read and understands the contents of this Amendment, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this Amendment and be bound thereby. The parties have duly executed and delivered this Amendment to the Agreement on \_\_\_\_\_, 20\_\_.

**FRANCHISOR:**

Texas Roadhouse Development Corporation,  
a Kentucky corporation

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

**FRANCHISEE:**

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

**AMENDMENT TO TEXAS ROADHOUSE DEVELOPMENT CORPORATION  
FRANCHISE AGREEMENT  
FOR THE STATE OF ILLINOIS**

The Texas Roadhouse Franchise Agreement between \_\_\_\_\_ (“**Franchisee**” or “**You**”) and Texas Roadhouse Development Corporation (“**Franchisor**”) dated \_\_\_\_\_, 20\_\_ (the “**Agreement**”) shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the “**Amendment**”):

**ILLINOIS LAW MODIFICATIONS**

1. The Illinois Attorney General’s Office requires that certain provisions contained in franchise documents be amended to be consistent with Illinois law, including the Franchise Disclosure Act of 1987, 815 ILCS 705/1 *et seq.* To the extent that this Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. Illinois Franchise Disclosure Act paragraphs 705/19 and 705/20 provide rights to You concerning nonrenewal and termination of this Agreement. If this Agreement contains a provision that is inconsistent with the Act, the Act will control.
- b. Any release of claims or acknowledgments of fact contained in the Agreement that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Act, or a rule or order under the Act shall be void and are hereby deleted with respect to claims under the Act.
- c. If this Agreement requires litigation to be conducted in a forum other than the State of Illinois, the requirement is void with respect to claims under the Illinois Franchise Disclosure Act.
- d. If this Agreement requires that it be governed by a state’s law, other than the State of Illinois, to the extent that such law conflicts with the Illinois Franchise Disclosure Act, Illinois law governing claims arising under the Act will control.

2. Section XIX, “**Miscellaneous**” should be amended by the addition of the following as the last sentence of the section:

“However, this Section shall not act as a condition, stipulation or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of the Illinois Franchise Disclosure Act of 1987 at Section 705/41.”

3. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of the Illinois Franchise Disclosure Act, with respect to each such provision, are met independent of this Amendment. This Amendment shall have no force or effect if such jurisdictional requirements are not met.

IN WITNESS WHEREOF, Franchisee on behalf of itself and its owners acknowledges that it has read and understands the contents of this Amendment, that it has had the opportunity to obtain the advice

of counsel, and that it intends to comply with this Amendment and be bound thereby. The parties have duly executed and delivered this Amendment to the Agreement on \_\_\_\_\_, 20\_\_.

**FRANCHISOR:**

Texas Roadhouse Development Corporation,  
a Kentucky corporation

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

**FRANCHISEE:**

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

**AMENDMENT TO TEXAS ROADHOUSE DEVELOPMENT CORPORATION  
FRANCHISE AGREEMENT  
FOR THE STATE MARYLAND**

The Texas Roadhouse Franchise Agreement between \_\_\_\_\_ (“**Franchisee**” or “**You**”) and Texas Roadhouse Development Corporation (“**Franchisor**”) dated \_\_\_\_\_, 20\_\_ (the “**Agreement**”) shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the “**Amendment**”):

MARYLAND LAW MODIFICATIONS

1. The Maryland Securities Division requires that certain provisions contained in franchise documents be amended to be consistent with Maryland law, including the Maryland Franchise Registration and Disclosure Law, MD. CODE ANN., BUS. REG. §§ 14-201 to 14-233 (2010 Repl. Vol. and Supp. 2010) (the “**Law**”). To the extent that this Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. The general release required as a condition of renewal, sale, and/or assignment/transfer shall not apply to any liability under the Law.
- b. Any acknowledgments or representations of Franchisee made in the agreement which disclaim the occurrence and/or acknowledge the non-occurrence of acts that would constitute a violation of the Law are not intended to nor shall they act as a release, estoppel or waiver of any liability incurred under the Law.
- c. A Franchisee may bring a lawsuit in Maryland for claims arising under the Law.
- d. The limitation on the period of time mediation and/or litigation claims must be brought shall not act to reduce the 3 year statute of limitations afforded a Franchisee for bringing a claim arising under the Law. Any claims arising under the Law must be brought within 3 years after the grant of the franchise.

2. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of the Maryland Franchise Registration and Disclosure Law, with respect to each such provision, are met independent of this Amendment. This Amendment shall have no force or effect if such jurisdictional requirements are not met.

IN WITNESS WHEREOF, Franchisee on behalf of itself and its owners acknowledges that it has read and understands the contents of this Amendment, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this Amendment and be bound thereby. The parties have duly executed and delivered this Amendment to the Agreement on \_\_\_\_\_, 20\_\_.

**FRANCHISOR:**

Texas Roadhouse Development Corporation,  
a Kentucky corporation

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

**FRANCHISEE:**

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



**AMENDMENT TO TEXAS ROADHOUSE DEVELOPMENT CORPORATION  
FRANCHISE AGREEMENT AND FRANCHISE DISCLOSURE DOCUMENT  
FOR THE STATE OF MINNESOTA**

The Texas Roadhouse Franchise Agreement between \_\_\_\_\_ (“**Franchisee**” or “**You**”) and Texas Roadhouse Development Corporation (“**Franchisor**”) dated \_\_\_\_\_, 20\_\_ (the “**Agreement**”) shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the “**Amendment**”):

MINNESOTA LAW MODIFICATIONS

1. The Commissioner of Commerce for the State of Minnesota requires that certain provisions contained in franchise documents be amended to be consistent with Minnesota Franchise Act, Minn. Stat. Section 80C.01 et seq., and the Rules and Regulations promulgated under the Act (collectively the “**Franchise Act**”). To the extent that the Agreement/and or Franchise Disclosure Document contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. The Minnesota Department of Commerce requires that franchisors indemnify Minnesota franchisees against liability to third parties resulting from claims by third parties that the franchisee’s use of the franchisor's proprietary marks infringes trademark rights of the third party.
- b. Minn. Stat. Sec. 80C.14, Subds. 3, 4., and 5 requires, except in certain specified cases, that a franchisee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of the franchise agreement. If the Agreement contains a provision that is inconsistent with the Franchise Act, the provisions of the Agreement shall be superseded by the Act's requirements and shall have no force or effect.
- c. If Franchisee is required in the Agreement to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Franchise Act, such release shall exclude claims arising under the Franchise Act, and such acknowledgments shall be void with respect to claims under the Franchise Act.
- d. If the Agreement requires that it be governed by the law of a State other than the State of Minnesota or arbitration or mediation, those provisions shall not in any way abrogate or reduce any rights of Franchisee as provided for in the Franchise Act, including the right to submit matters to the jurisdiction of the courts of Minnesota.
- e. Any provision that requires Franchisee to consent to a claims period that differs from the applicable statute of limitations period under Minn. Stat § 80C.17, Subd. 5. may not be enforceable under Minnesota.

2. Minn. Stat. §80C.21 and Minn. Rule 2860.4400J prohibit us from requiring litigation to be conducted outside Minnesota. In addition, nothing in the franchise disclosure document or agreement can

abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, including your rights to any procedure, forum, or remedies provided for in that law.

3. The Agreement/and or Franchise Disclosure Document is hereby amended to delete all references to Liquidated Damages (as defined) in violation of Minnesota law; provided, that no such deletion shall excuse the franchisee from liability for actual or other damages and the formula for Liquidated Damages in the Agreement/and or Franchise Disclosure Document shall be admissible as evidence of actual damages.

4. To the extent required by Minnesota Law, the Agreement/and or Franchise Disclosure Document is amended to delete all references to a waiver of jury trial.

5. All sections of the Agreement/and or Franchise Disclosure Document referencing Franchisor's right to obtain injunctive relief are hereby amended to refer to Franchisor's right to seek to obtain.

6. Each provision of this Agreement shall be effective only to the extent that the jurisdictional requirements of the Minnesota law applicable to the provision are met independent of this Amendment. This Amendment shall have no force or effect if such jurisdictional requirements are not met.

IN WITNESS WHEREOF, Franchisee on behalf of itself and its owners acknowledges that it has read and understands the contents of this Amendment, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this Amendment and be bound thereby. The parties have duly executed and delivered this Amendment to the Agreement on \_\_\_\_\_, 20\_\_.

**FRANCHISOR:**

Texas Roadhouse Development Corporation,  
a Kentucky corporation

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

**FRANCHISEE:**

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

**AMENDMENT TO TEXAS ROADHOUSE DEVELOPMENT CORPORATION  
FRANCHISE AGREEMENT  
FOR THE STATE NEW YORK**

The Texas Roadhouse Franchise Agreement between \_\_\_\_\_ (“**Franchisee**” or “**You**”) and Texas Roadhouse Development Corporation (“**Franchisor**”) dated \_\_\_\_\_, 20\_\_ (the “**Agreement**”) shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the “**Amendment**”):

NEW YORK LAW MODIFICATIONS

1. The New York Department of Law requires that certain provisions contained in franchise documents be amended to be consistent with New York law, including the General Business Law, Article 33, Sections 680 through 695 (1989). To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. If Franchisee is required in the Agreement to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the General Business Law, regulation, rule or order under the Law, such release shall exclude claims arising under the New York General Business Law, Article 33, Section 680 through 695 and the regulations promulgated thereunder, and such acknowledgments shall be void. It is the intent of this provision that non-waiver provisions of Sections 687.4 and 687.5 of the General Business Law be satisfied.
- b. If the Agreement requires that it be governed by the law of a state, other than the State of New York, the choice of law provision shall not be considered to waive any rights conferred upon Franchisee under the New York General Business Law, Article 33, Sections 680 through 695.

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2. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of the New York General Business Law, with respect to each such provision, are met independent of this Amendment. This Amendment shall have no force or effect if such jurisdictional requirements are not met.

**FRANCHISOR:**

Texas Roadhouse Development Corporation,  
a Kentucky corporation

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

**FRANCHISEE:**

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

**AMENDMENT TO TEXAS ROADHOUSE DEVELOPMENT CORPORATION  
FRANCHISE AGREEMENT  
FOR THE STATE OF NORTH DAKOTA**

The Texas Roadhouse Franchise Agreement between \_\_\_\_\_ (“**Franchisee**” or “**You**”) and Texas Roadhouse Development Corporation (“**Franchisor**”) dated \_\_\_\_\_, 20\_\_ (the “**Agreement**”) shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the “**Amendment**”):

**NORTH DAKOTA LAW MODIFICATIONS**

1. The North Dakota Securities Commissioner requires that certain provisions contained in franchise documents be amended to be consistent with North Dakota law, including the North Dakota Franchise Investment Law, North Dakota Century Code Annotated Chapter 51-19, Sections 51-19-01 through 51-19-17 (1995). To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. If Franchisee is required in the Agreement to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Law, or a rule or order under the Law, such release shall exclude claims arising under the North Dakota Franchise Investment Law, and such acknowledgments shall be void with respect to claims under the Law.
- b. Covenants not to compete during the term of and upon termination or expiration of the Agreement are enforceable only under certain conditions according to North Dakota Law. If the Agreement contains a covenant not to compete which is inconsistent with North Dakota Law, the covenant may be unenforceable.
- c. If the Agreement requires litigation to be conducted in a forum other than the State of North Dakota, the requirement is void with respect to claims under the North Dakota Franchise Investment Law.
- d. If the Agreement requires that it be governed by the law of a state, other than the State of North Dakota, to the extent that such law conflicts with North Dakota Law, North Dakota Law will control.
- e. If the Agreement requires mediation or arbitration to be conducted in a forum other than the State of North Dakota, the requirement may be unenforceable under the North Dakota Franchise Investment Law. Arbitration involving a franchise purchased in the State of North Dakota must be held either in a location mutually agreed upon prior to the arbitration or if the parties cannot agree on a location, the location will be determined by the arbitrator.
- f. If the Agreement requires payment of a termination penalty, the requirement may be unenforceable under the North Dakota Franchise Investment Law.
- g. Any provision that provides that the parties waive their right to a jury trial may not be enforceable under North Dakota law.

- h. Any provision that provides that Franchisee consent to a waiver of punitive and exemplary damages may not be enforceable under North Dakota Law.
- i. Any provision that requires Franchisee to consent to a claims period that differs from the applicable statute of limitations period under North Dakota Law may not be enforceable under North Dakota Law.

2. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of the North Dakota Franchise Investment Law, with respect to each such provision, are met independent of this Amendment. This Amendment shall have no force or effect if such jurisdictional requirements are not met.

IN WITNESS WHEREOF, Franchisee on behalf of itself and its owners acknowledges that it has read and understands the contents of this Amendment, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this Amendment and be bound thereby. The parties have duly executed and delivered this Amendment to the Agreement on \_\_\_\_\_, 20\_\_.

**FRANCHISOR:**

Texas Roadhouse Development Corporation,  
a Kentucky corporation

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

**FRANCHISEE:**

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

**AMENDMENT TO TEXAS ROADHOUSE DEVELOPMENT CORPORATION  
FRANCHISE AGREEMENT  
FOR THE STATE OF RHODE ISLAND**

The Texas Roadhouse Franchise Agreement between \_\_\_\_\_ (“**Franchisee**” or “**You**”) and Texas Roadhouse Development Corporation (“**Franchisor**”) dated \_\_\_\_\_, 20\_\_ (the “**Agreement**”) shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the “**Amendment**”):

**RHODE ISLAND LAW MODIFICATIONS**

1. The Rhode Island Securities Division requires that certain provisions contained in franchise documents be amended to be consistent with Rhode Island law, including the Franchise Investment Act, R.I. Gen. Law, tit. 19 chap. 28.1 §§19-28.1-1 -19-28.1-34. To the extent that this Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:
  - a. If this Agreement requires litigation to be conducted in a forum other than the State of Rhode Island, the requirement is void with respect to any claims brought under Rhode Island Franchise Investment Act Sec. 19-28.1-14.
  - b. If this Agreement requires that it be governed by a state's law, other than the State of Rhode Island, to the extent that such law conflicts with Rhode Island Franchise Investment Act it is void under Section 19-28.1-14.
  - c. If Franchisee is required in this Agreement to execute a release of claims or to acknowledge facts that would negate or remove from judicial review any statement, misrepresentation or action that would violate the Act, or a rule or order under the Act, such release shall exclude claims arising under the Rhode Island Franchise Investment Act, and such acknowledgments shall be void with respect to claims under the Act.
2. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of the Rhode Island Franchise Investment Act, with respect to each such provision, are met independent of this Amendment. This Amendment shall have no force or effect if such jurisdictional requirements are not met.

IN WITNESS WHEREOF, Franchisee on behalf of itself and its owners acknowledges that it has read and understands the contents of this Amendment, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this Amendment and be bound thereby. The parties have duly executed and delivered this Amendment to the Agreement on \_\_\_\_\_, 20\_\_.

**FRANCHISOR:**

Texas Roadhouse Development Corporation,  
a Kentucky corporation

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

**FRANCHISEE:**

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



**AMENDMENT TO TEXAS ROADHOUSE DEVELOPMENT CORPORATION  
FRANCHISE AGREEMENT  
FOR THE STATE OF WASHINGTON**

The Texas Roadhouse Franchise Agreement between \_\_\_\_\_ (“**Franchisee**” or “**You**”) and Texas Roadhouse Development Corporation (“**Franchisor**”) dated \_\_\_\_\_, 20\_\_ (the “**Agreement**”) shall be amended by the addition of the following language, which shall be considered an integral part of the Agreement (the “**Amendment**”):

WASHINGTON LAW MODIFICATIONS

1. The Director of the Washington Department of Financial Institutions requires that certain provisions contained in franchise documents be amended to be consistent with Washington law, including the Washington Franchise Investment Protection Act, WA Rev. Code §§ 19.100.010 to 19.100.940 (1994). To the extent that the Agreement contains provisions that are inconsistent with the following, such provisions are hereby amended:

- a. Washington Franchise Investment Protection Act provides rights to You concerning nonrenewal and termination of the Agreement. If the Agreement contains a provision that is inconsistent with the Act, the Act will control.
- b. If the Franchisee is required in the Agreement to execute a release of claims, such release shall exclude claims arising under the Washington Franchise Investment Protection Act; except when the release is executed under a negotiated settlement after the Agreement is in effect and where the parties are represented by independent counsel. If there are provisions in the Agreement that unreasonably restrict or limit the statute of limitations period for claims brought under the Act, or other rights or remedies under the Act, those provisions may be unenforceable.
- c. If the Agreement requires litigation, arbitration, or mediation to be conducted in a forum other than the State of Washington, the requirement may be unenforceable under Washington law. Arbitration involving a franchise purchased in the State of Washington, must either be held in the State of Washington or in a place mutually agreed upon at the time of the arbitration, or as determined by the arbitrator. 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.
- d. If the Agreement requires that it be governed by the law of a state, other than the State of Washington, and there is a conflict between the law and the Washington Franchise Investment Protection Act, the Washington Franchise Investment Protection Act will control.
- e. Transfer fees are collectable to the extent that they reflect the Franchisor’s reasonable estimated or actual costs in effecting a transfer.
- f. 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.

2. Each provision of this Amendment shall be effective only to the extent that the jurisdictional requirements of the Washington law applicable to the provision are met independent of this Amendment. This Amendment shall have no force or effect if such jurisdictional requirements are not met. IN WITNESS WHEREOF, the Franchisee on behalf of itself and its owners acknowledges that it has read and understands the contents of this Amendment, that it has had the opportunity to obtain the advice of counsel, and that it intends to comply with this Amendment and be bound thereby. The parties have duly executed and delivered this Amendment to the Agreement on \_\_\_\_\_, 20\_\_.

**FRANCHISOR:**

Texas Roadhouse Development Corporation,  
a Kentucky corporation

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

**FRANCHISEE:**

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

**EXHIBIT A**

**AGREEMENT AND PLAN OF REORGANIZATION**

## AGREEMENT AND PLAN OF REORGANIZATION

This Agreement and Plan of Reorganization dated as of \_\_\_\_\_, 20\_\_ (the “**Agreement**”), is made by and among (i) Texas Roadhouse, Inc., a Delaware corporation (“**Roadhouse**”), (ii) Texas Roadhouse Holdings LLC, a Kentucky limited liability company (“**Roadhouse Sub**”), (iii) \_\_\_\_\_, a \_\_\_\_\_ corporation (“**Franchisee**”) and (iv) \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, (each a “**Shareholder**,” and collectively, the “**Shareholders**”).

### RECITALS

A. Franchisee and Texas Roadhouse Development Corporation, a Kentucky corporation (“**TRDC**”) are parties to that certain Franchise Agreement, dated as of \_\_\_\_\_, \_\_\_\_ (the “**Franchise Agreement**”), whereby Franchisee granted Roadhouse Development Corporation and its affiliates the option to acquire Franchisee’s franchised business (the “**Business**”).

B. Roadhouse, as an affiliate of Roadhouse Development Corporation, has exercised its option to acquire Franchisee’s Business and desires to cause Roadhouse Sub to acquire, and Franchisee and Shareholders desire to convey, the assets relating to the Business on the terms and conditions set forth in this Agreement.

C. Roadhouse Sub is a single member limited liability company wholly-owned by Roadhouse and a disregarded entity for federal income tax purposes.

D. It is intended that the forgoing acquisition of Franchisee’s assets, assumption of Franchisee’s liabilities and dissolution of Franchisee will be accomplished as a tax-free reorganization within the meaning of Section 368(a)(1)(C) of the Code.

THE PARTIES, INTENDING TO BE LEGALLY BOUND, AGREE AS FOLLOWS:

### ARTICLE I DEFINITIONS

1.1. Defined Terms. When used in this Agreement, the following terms shall have the meanings specified:

“**Accounts Receivable**” has the meaning set forth in Section 2.1(f).

“**Agreement**” means this Agreement and Plan of Reorganization, together with all schedules and exhibits referred to in this Agreement, as each may be amended from time to time in accordance with the terms of this Agreement.

“**Alternative Transaction**” has the meaning set forth in Section 6.15.

“**Appurtenances**” means all privileges, rights, easements, hereditaments and appurtenances belonging to or for the benefit of the Land, including all easements appurtenant to and for the benefit of any Land (a “**Dominant Parcel**”) for, and as the primary means of access between, the Dominant Parcel and a public way, or for any other use upon which lawful use of the Dominant Parcel for the purposes for which it is presently being used is dependent, and all rights existing in and to any streets, alleys, passages and other rights-of-way included thereon or adjacent thereto (before or after vacation thereof) and vaults beneath any such streets.

**“Articles of Dissolution”** means the Articles of Dissolution to be executed by Franchisee and to be filed on the Closing Date with the office of the Secretary of State of the State of Franchisee’s organization commencing the Dissolution Proceedings as provided for herein.

**“Assignment and Assumption Agreement”** means the Assignment and Assumption Agreement with respect to the Contracts to be assumed by Roadhouse Sub, substantially in the form attached as Exhibit B.

**“Assumed Obligations”** has the meaning set forth in Section 2.5(a).

**“Bill of Sale”** means the Bill of Sale with respect to the transfer and sale of the Purchased Assets, substantially in the form attached as Exhibit B.

**“Business”** has the meaning set forth in the Recitals.

**“Closing”** has the meaning set forth in Section 3.3.

**“Closing Date”** means \_\_\_\_\_, 20\_\_, unless a different date is agreed to in writing by the parties.

**“Closing Time”** means 10:00 a.m. Eastern Time on the Closing Date.

**“Contracts”** has the meaning set forth in Section 2.1(d).

**“Code”** means the Internal Revenue Code of 1986, as amended.

**“Dissolution Proceedings”** means the actions taken by Franchisee to effectuate the voluntary and complete dissolution of Franchisee in accordance with the applicable provisions of the corporation law of the State of Franchisee’s organization, including the requisite approval actions to be taken by Franchisee’s Board of Directors and Franchisee’s shareholders.

**“Employee”** has the meaning set forth in Section 4.15(a).

**“Employee Agreement”** has the meaning set forth in Section 4.16(a).

**“Employee Plan”** has the meaning set forth in Section 4.16(a).

**“Environmental Laws”** has the meaning set forth in Section 4.20.

**“ERISA”** has the meaning set forth in Section 4.16.(a).

**“Escrow Agreement”** has the meaning set forth in Section 2.4(b).

**“Excluded Assets”** has the meaning set forth in Section 2.1, and shall include the Excluded Contracts.

**“Excluded Contracts”** has the meaning set forth in Section 2.1.

**“Excluded Obligations”** has the meaning set forth in Section 2.5(b).

**“Financial Statements”** means the financial statements of Franchisee as provided to Roadhouse Sub relating to Franchisee’s 20\_\_ and 20\_\_ fiscal years (which shall be audited), and the period from \_\_\_\_\_, 20\_\_ to \_\_\_\_\_, 20\_\_

**“Franchisee”** means \_\_\_\_\_, a \_\_\_\_\_ corporation.

**“Franchisee Agreement”** has the meaning set forth in the Recitals.

**“Franchisee Employees”** has the meaning set forth in Section 11.1.

**“GAAP”** means those generally accepted accounting principles which are recognized as such by the American Institute of Certified Public Accountants acting through its Accounting Principles Board or the Financial Accounting Standards Board or through other appropriate boards or committees thereof, and which are consistently applied.

**“Governmental Authority”** means the government of (i) the United States of America or any state or other political subdivision thereof, (ii) any other jurisdiction in which Franchisee conducts any part of its Business, or which asserts jurisdiction over any properties of Franchisee, or (iii) any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to, any such government.

**“Ground Lease Property”** means any real property subject to a Real Property Lease.

**“Improvements”** means all buildings, structures, fixtures and improvements located on the Land or included in the Purchased Assets or the Ground Lease Property, including those under construction.

**“Insured Exception”** has the meaning set forth in Section 6.20(d).

**“Intellectual Property”** has the meaning set forth in Section 4.11(a).

**“IRC”** means the Internal Revenue Code of 1986, as amended.

**“Law”** means any federal, state, local or other law or governmental requirement of any kind, whether legislatively, judicially or administratively promulgated and any rules, regulations and orders promulgated thereunder.

**“Land”** means all parcels and tracts of land in which Franchisee has an ownership interest.

**“Material Adverse Effect”** means a material and adverse effect on the financial condition, assets, liabilities, business, property or prospects of Franchisee, the Purchased Assets or Roadhouse, as applicable.

**“Non-Assignable Contract”** has the meaning set forth in Section 2.2.

**“Permitted Real Estate Encumbrances”** has the meaning set forth in Section 4.4.

**“Personal Property”** has the meaning set forth in Section 2.1(b).

**“Personal Property Leases”** has the meaning set forth in Section 2.1(c).

**“Proxy”** has the meaning set forth in Section 3.2.

“**Purchase Price**” has the meaning set forth in Section 2.4(a).

“**Purchased Assets**” has the meaning set forth in Section 2.1.

“**Real Estate Encumbrances**” has the meaning set forth in Section 4.4.

“**Real Property**” means the Land and Improvements and all Appurtenances thereto and any Ground Lease Property, all as more fully described on Schedule 2.1(a).

“**Real Property Leases**” has the meaning set forth in Section 2.1(n).

“**Recorded Documents**” has the meaning set forth in Section 6.20(a)(i)(B).

“**Records**” has the meaning set forth in Section 2.1(h).

“**Roadhouse**” means Texas Roadhouse, Inc., a Delaware corporation.

“**Roadhouse Common Stock**” has the meaning set forth in Section 2.4(a).

“**Roadhouse Development Corporation**” has the meaning set forth in the Recitals.

“**Roadhouse Sub**” means Texas Roadhouse Holdings LLC, a Kentucky limited liability company.

“**Securities Act**” means the Securities Act of 1933, as amended, together with all rules, regulations and interpretations thereunder.

“**Subsidiary**” means any corporation, partnership, joint venture, limited liability company or other legal entity in which Franchisee owns, directly or indirectly, an equity interest.

“**Survey**” has the meaning set forth in Section 6.20(a)(ii)(B).

“**Taxes**” has the meaning set forth in Section 4.19.

“**Third Party Intellectual Property**” has the meaning set forth in Section 4.11(a).

“**Title Commitment**” has the meaning set forth in Section 6.20(a)(i)(A).

“**Title Insurer**” has the meaning set forth in Section 6.20(a)(i).

“**Title Objection**” has the meaning set forth in Section 6.20(c).

“**Transaction**” means the transactions contemplated by this Agreement.

## **ARTICLE II ASSET EXCHANGE**

2.1. Commitment to Sell and Assign. Upon the terms and subject to the conditions set forth in this Agreement, Franchisee shall sell, transfer, assign, convey and deliver to Roadhouse Sub all of the assets, properties, interests, business, goodwill, claims and other rights of Franchisee (other than the Excluded Assets) relating to the Business, whether tangible or intangible, vested or unvested, contingent or otherwise, real, personal or mixed, and wherever located, whether or not reflected on the books and records

of Franchisee and whether or not described in this Agreement or in any of the schedules or exhibits to this Agreement, as such existed as of the date hereof, together with additional assets acquired from the date hereof to the Closing Time, including, without limitation, all right, title and interest of Franchisee in and to the specified assets, properties and rights set forth below (collectively, the “**Purchased Assets**”):

(a) All real property including leasehold improvements of Franchisee, as more fully described on Schedule 2.1(a);

(b) All fixed assets, furniture, property, equipment, fixtures, tools, machinery, office equipment, plant and other tangible personal property related to or used in connection with the Business or located at Franchisee’s place of business, which are set forth in further detail on Schedule 2.1(b) (the “**Personal Property**”);

(c) Franchisee’s interest under those certain leases of equipment and other personal property pertaining to the Business set forth on Schedule 2.1(c) (the “**Personal Property Leases**”);

(d) Franchisee’s interest in all real and personal property leases, personal easements, equipment leases, rental agreements, sales and purchase orders and acknowledgments, permits, license and maintenance agreements, third party product agreements, third party supply agreements, promissory notes and other evidences of indebtedness, and related loan and security agreements, and any and all other contracts or binding agreements relating to the Business (collectively, the “**Contracts**”) and all of Franchisee’s interests (including rights to refund and offset), privileges, claims, causes of action and options relating to the Contracts or any portion thereof; provided, however, that each of the Excluded Contracts (as defined below) shall be retained by Franchisee and shall not be considered a “**Contract**;”

(e) All cash held by Franchisee;

(f) All of Franchisee’s accounts receivable, notes, claims and other amounts receivable by Franchisee as a result of Franchisee ownership of the Purchased Assets or arising out of the Business, as of the Closing Time, including, but not limited to, amounts due from customers and vendors, whether or not arising in the ordinary course of business (the “**Accounts Receivable**”);

(g) Prepaid expenses or advances to third parties relating to the Business, including, without limitation, deposits and maintenance agreements;

(h) Except as set forth below, all business, accounting and financial records, property records, contract records, personnel records, correspondence, files, books and documents of Franchisee relating to the Business, including, without limitation, sales, marketing and advertising data and materials, customer and mailing lists, production reports, equipment logs, guides, vendor and customer invoices, credit reports, billing records, service records, software and related documentation, artwork, photographs, manuals and teaching aids, engineering, maintenance and production records (the “**Records**”);

(i) All of Franchisee’s inventory related to the Business;

(j) All of Franchisee’s licenses and permits required for the operation of the Business and the operation of the Purchased Assets or used by Franchisee (except for those licenses and permits identified on Schedule 4.17 as not being assignable (to the extent consent or notification is required for assignment, Franchisee shall obtain such consent and provide applicable notification prior to Closing);

(k) All Intellectual Property (as defined in Section 4.11), including, but not limited to, that set forth on Schedule 2.1(k);



(l) All of Franchisee's rights to use the Third Party Intellectual Property (as defined in Section 4.11), including, but not limited to, that set forth on Schedule 2.1(l);

(m) All goodwill associated with the Business; and

(n) All leases, including capitalized leases, for real property leased or used by Franchisee in connection with the Business, including those set forth on Schedule 2.1(n) (the "**Real Property Leases**").

Notwithstanding the foregoing, the Purchased Assets shall not include: (i) any contract or agreement relating to the Business that Roadhouse Sub is unwilling to assume (the "**Excluded Contracts**"); (ii) general books and records that comprise Franchisee's permanent accounting, tax or corporate records and books and records that Franchisee is required to retain pursuant to any statute, rule or regulation; provided, however, Franchisee shall provide Roadhouse Sub with copies or information regarding each of the foregoing; or (iii) any obligations arising out of indebtedness subject to an event of default (collectively, the "**Excluded Assets**").

2.2. Non-Assignable Contracts. In the event any Contracts are, by their terms or by virtue of their subject matter, not assignable without the consent of a third party (the "**Non-Assignable Contracts**," all of which are listed on Schedule 2.2), Franchisee will use its best efforts to obtain, prior to the Closing Time, any written consents necessary to convey to Roadhouse Sub the benefit thereof. Roadhouse Sub will cooperate with Franchisee, in such manner as may be reasonably requested and at Franchisee's expense, in connection with obtaining such consents; provided that Roadhouse Sub shall not be obligated to agree to pay any consideration or increase the consideration payable under any such Non-Assignable Contract or to make any other agreement that would affect adversely in any other way the economics for Roadhouse Sub under such Non-Assignable Contract, or would make the obligations intended to be assumed by Roadhouse Sub thereunder more burdensome. Franchisee will inform Roadhouse Sub from time to time prior to the Closing Time of Franchisee's receipt of any third party's refusal to grant its consent to any such assignment. Nothing in this Agreement shall be construed as an attempt or an agreement to assign or cause the assignment of any Non-Assignable Contract included in the Purchased Assets that is at law nonassignable without the consent of the required parties, unless such consent shall have been given. In the event that any third party to a Non-Assignable Contract has not consented to an assignment thereof to Roadhouse Sub as of the Closing Time, then (i) Roadhouse Sub will have no liability or obligation to Franchisee, such third party or any other party with respect to such Non-Assignable Contract, and (ii) the parties shall determine an appropriate adjustment to the Purchase Price based on the value of such Non-Assignable Contract, or Roadhouse Sub may, in its sole discretion, terminate this Agreement with no liability to any of the parties to this Agreement.

2.3. Commitment to Purchase and Accept. Upon the terms and subject to the conditions set forth in this Agreement, Roadhouse Sub shall purchase, accept and acquire the Purchased Assets, free and clear of all liens, claims and encumbrances whatsoever (except as set forth in Section 4.4), and in full payment for such purchase shall pay to Franchisee the Purchase Price.

2.4. Purchase Price; Escrow of Shares; Working Capital Adjustment.

(a) Subject to customary closing adjustments for taxes, utilities, accrued employee fringe benefits, Assumed Obligations, Non-Assignable Contracts and other similar items, the purchase price for the Purchased Assets (the "**Purchase Price**") shall be \_\_\_\_\_ shares of Roadhouse's Class A common stock, par value \$.001 per share (the "**Roadhouse Common Stock**"). In the calculation of the number of shares of Roadhouse Common Stock issued pursuant to the preceding sentence, Franchisee's shareholders shall receive the benefit of any stock split occurring between the date of this Agreement and the Closing

Date. The parties acknowledge and agree that the determination of the Purchase Price was mutually agreed upon by the parties and represents certain modifications of the methodologies set forth in the Franchise Agreement, and that, to the extent necessary, the Franchise Agreement is amended and superceded to reflect such modifications to the Purchase Price determination. The parties acknowledge that the base amount for Franchisee's Working Capital (as defined in Schedule 2.4(a)) used to determine the Purchase Price was \$\_\_\_\_\_, and that any increase or decrease in Franchisee's Working Capital (as defined on Schedule 2.4(a)) on the Closing Date, shall result in an increase or decrease, as applicable, in the Purchase Price in accordance with Section 2.4(c).

(b) The parties acknowledge that 20% of the shares of Roadhouse Common Stock issued pursuant to Section 2.4(a) shall be held in escrow for a period of six (6) months after the Closing Date, pursuant to the terms of an escrow agreement substantially in the form of the agreement attached as Exhibit C (the "**Escrow Agreement**"). Upon the expiration of the six (6) month period, 10% of the shares held in escrow shall be released to Franchisee's shareholders, minus any shares subject to an indemnification claim by Roadhouse Sub made prior to such date. All shares remaining in escrow on the first anniversary of the Closing Date shall be released to Franchisee's shareholders, minus any shares then subject to an indemnification claim as further set forth in the Escrow Agreement. Franchisee's shareholders shall have the right to vote and receive dividends on such shares while held in escrow.

(c) The parties agree that the determination of the Closing Date Working Capital shall be jointly determined by Roadhouse Sub and Franchisee within 30 days after Closing. If the Closing Date Working Capital is less than the amount set forth on Schedule 2.4(a), then Franchisee shall pay the difference in cash to Roadhouse Sub within 45 days after the Closing Date. If the Closing Date Working Capital is greater than the amount set forth on Schedule 2.4(a), the Roadhouse sub shall pay the difference to Franchisee in cash or Roadhouse Common Stock (using the same price per share as used for purposes of the determination of the Purchase Price) within 45 days after Closing. If there is a disagreement between the parties regarding the determination of Closing Date Working Capital, then the determination of Closing Date Working Capital shall be made by an accounting firm selected by mutual agreement of Roadhouse Sub and Franchisee, or if no agreement can be reached, then by Roadhouse's regularly employed accounting firm, with results of such determination binding on all parties.

## 2.5. Liabilities.

(a) On the Closing Date, Roadhouse Sub shall assume only the following specifically enumerated obligations and liabilities of Franchisee (the "**Assumed Obligations**"):

- (i) obligations under the Contracts;
- (ii) liabilities arising on and after the Closing Date (except as otherwise set forth in this Agreement) under the Contracts, the Real Property Leases and other assets included in the Purchased Assets;
- (iii) liabilities for accounts payable and accrued and unpaid expenses of the Business incurred in the ordinary course of business, including, with respect to Franchisee Employees, employment costs relating to facts and circumstances arising on or after the Closing Date;
- (iv) insurance claims made on or after the Closing Date relating to the Purchased Assets or Assumed Obligations;
- (v) liabilities arising from the ownership of the Purchased Assets on and after the Closing Date; and

(vi) liabilities relating to all causes of action and other claims which a third party may assert in respect of any of the Purchased Assets (but only to the extent such causes of action or claims relate to liabilities assumed hereunder).

(b) Franchisee shall retain and Roadhouse Sub shall not assume any liabilities or obligations (other than the Assumed Obligations) of Franchisee, whether known or unknown, fixed or contingent, including, without limitation, the following obligations or liabilities (the “**Excluded Obligations**”):

(i) obligations and liabilities arising out of or relating to the Excluded Assets;

(ii) liabilities of Franchisee for Taxes not shown on the Financial Statements accruing prior to the Closing Date and Taxes relating to the conduct of the Business prior to the Closing Date;

(iii) liabilities of Franchisee relating to any Employee not shown on the Financial Statements or arising under or pursuant to any Employee Plan or Employee Agreement, including, without limitation, all liabilities relating to the employment by Franchisee of any employee, agent, contractor or consultant, or the termination of such employment prior to the Closing Date and all liabilities and responsibilities for compliance with the requirements of Section 4980B of the Code (COBRA) through the Closing Date, which includes any terminations of employment that occur on such date as a result of the Transaction;

(iv) other liabilities of the Business not expressly included in the Assumed Obligations, including, without limitation, all liabilities of Franchisee in connection with the Business arising under or pursuant to Environmental Laws arising from events occurring prior to the Closing Date;

(v) all overdrafts; and

(vi) the liabilities set forth on Schedule 2.5(b).

2.6. Power of Attorney. Effective as of the Closing Time, Franchisee constitutes and appoints Roadhouse Sub and its successors, legal representatives and assigns the true and lawful attorneys of Franchisee, with full power of substitution, in the name of Franchisee or Roadhouse Sub, but on behalf of and for the benefit of Roadhouse Sub and its successors, legal representatives and assigns to: (a) demand and receive from time to time any and all of the Purchased Assets and to make endorsements and give receipts and releases for and in respect of the same and any part thereof; (b) institute, prosecute, compromise and settle any and all proceedings at law, in equity or otherwise that Roadhouse Sub and its successors, legal representatives or assigns may deem proper in order to collect, assert or enforce any claim, right or title of any kind in or to the Purchased Assets; (c) defend any or all actions, suits or proceedings in respect of any of the Purchased Assets; and (d) do all such acts and things in relation to such matters as Roadhouse Sub and its successors, legal representatives or assigns deem desirable. Franchisee agrees that the appointment hereby made and the powers hereby granted are coupled with an interest and are and shall be irrevocable by it in any manner or for any reason. After the Closing Time, Roadhouse Sub shall have the right to receive and open all mail, packages and other communications addressed to Franchisee and relating to the Purchased Assets, and Franchisee agrees promptly to deliver to Roadhouse Sub any such mail, packages or other communications received directly or indirectly by Franchisee. Roadhouse Sub shall promptly deliver to Franchisee all mail, packages and other communications received by it which relate to Franchisee but do not relate to the Purchased Assets. Notwithstanding any provisions contained in this Section 2.6 to the contrary, such power of attorney granted by Franchisee to Roadhouse Sub shall be limited solely with respect to the Transaction.

**ARTICLE III  
TAX-FREE REORGANIZATION;  
CLOSING**

3.1. Tax-Free Reorganization. The respective Boards of Directors of Roadhouse, Roadhouse Sub and Franchisee intend that the Transaction shall qualify as a tax-free reorganization under IRC § 368(a)(1)(C), and the parties agree that the Transaction shall be reported for tax purposes in a manner consistent with such treatment.

3.2. Approval by Franchisee's Shareholders; Shareholder Instruments. Franchisee will take any additional appropriate action necessary to have the transactions contemplated in Article II and the Dissolution Proceedings approved by Franchisee's shareholders in accordance with the applicable provisions of the State corporation laws of the State of Franchisee's organization. As soon as reasonably possible after execution of this Agreement, but no later than the Closing Date, Franchisee shall cause each Franchisee shareholder to execute and deliver to Roadhouse Sub a Declaration (the "**Declaration**"), substantially in the form attached as Exhibit E, and an assignment separate from certificate or stock power, substantially in the form attached as Exhibit D.

3.3. Closing. The closing of the sale and purchase of the Business (the "**Closing**") will be held at 10:00 a.m. Eastern Time on the Closing Date at the offices of Roadhouse in Louisville, Kentucky unless the parties otherwise agree. All transactions occurring at the applicable Closing shall be deemed to have occurred simultaneously as of the Closing Time, and no one transaction shall be complete until all transactions have been completed.

3.4. Franchisee's Deliveries at Closing. Franchisee and the Shareholders, as applicable, shall execute and deliver at the Closing or cause to be executed and delivered, to Roadhouse Sub (to the extent applicable with respect to Franchisee's leased or owned Real Property) the following:

(a) the Assignment and Assumption Agreement, substantially in the form attached as Exhibit B, with respect to the Personal Property Leases and Contracts;

(b) the Bill of Sale conveying in the aggregate all of the Personal Property, Intellectual Property and Records, and any other personal property included in the Purchased Assets, substantially in the form attached as Exhibit B;

(c) general warranty deed(s) transferring the Real Property, in a form satisfactory to Roadhouse Sub;

(d) an estoppel and consent certificate (dated not more than 30 days prior to the Closing Date) from each landlord under Real Property Leases reasonably acceptable in form to Roadhouse Sub;

(e) a Subordination, Nondisturbance and Attornment Agreement with respect to each Real Property Lease, in a form satisfactory to Roadhouse Sub;

(f) an assignment of each Real Property Lease, conveying title to each Real Property Lease in accordance with this Agreement, in a form satisfactory to Roadhouse Sub;

(g) assignments, each in form satisfactory to Roadhouse Sub, of all Intellectual Property from Franchisee to Roadhouse Sub and rights to all Third Party Intellectual Property (together with written consents of the owners thereof to such assignment and use) other than the Excluded Contracts;

- (h) all consents that are required from parties to the Non-Assignable Contracts;
- (i) true, correct and complete copies of Franchisee's Articles or Certificate of Incorporation and all amendments thereto, certified within 60 days of the Closing Date by the Secretary of State of Franchisee's State of incorporation (with copy certified as of the Closing Date by Franchisee's secretary or comparable officer included among Franchisee's deliveries);
- (j) a certificate of the Secretary of State of Franchisee's State of incorporation, dated within 60 days of the Closing Date, duly certifying as to the existence and good standing of Franchisee as a corporation under the laws of the state of Franchisee's State of incorporation (to be updated during the week prior to Closing);
- (k) certificates from each State, if any, where Franchisee is required to be qualified as a foreign corporation showing such qualification, dated as of a recent date;
- (l) a certificate executed by an officer of Franchisee, dated as of the Closing Date, that certifies (i) the due adoption by Franchisee of resolutions attached to such certificate authorizing the transactions and the execution and delivery of this Agreement and the other agreements and documents contemplated hereby and the taking of all actions contemplated hereby and thereby; (ii) the due adoption by the stockholders of Franchisee of this Agreement and the approval of the transactions contemplated by Article II and the Dissolution Proceedings by the requisite vote under applicable law; and (iii) that the copy of the Bylaws attached to such certificate is a true and correct copy of such Bylaws and that such Bylaws have not been amended;
- (m) a certificate executed by an officer of Franchisee, dated as of the Closing Date, that certifies that the representations and warranties of Franchisee contained in this Agreement are true and correct as of the Closing Date and that Franchisee has performed and complied with all covenants and conditions required by this Agreement to be performed and complied with by any of them at or prior to Closing;
- (n) executed original copies of all Real Property Leases, Contracts and Personal Property Leases and all amendments, supplements or modifications thereto;
- (o) all of Franchisee's books and records constituting a part of the Purchased Assets, including, without limitation, the Records;
- (p) possession or constructive possession of the Purchased Assets;
- (q) such documents necessary to release the Purchased Assets from all liens, claims, and encumbrances not expressly assumed hereunder;
- (r) supplements to the schedules to this Agreement showing any changes that have occurred between the date of this Agreement and the Closing Date; provided that such update does not have any effect on the representations and warranties of Franchisee and the Shareholders under this Agreement;
- (s) such other agreements, documents and/or instruments, including, without limitation, specific releases, assignments, bills of sale and other instruments of conveyance and transfer, in form and substance acceptable to Roadhouse Sub, as may be appropriate to transfer, convey and deliver the Purchased Assets from Franchisee to Roadhouse Sub and to vest in Roadhouse Sub title thereto free and clear of all liens, claims and encumbrances (except as set forth in Section 4.4);

(t) a Phase I environmental site assessment, together with a reliance letter in favor of Roadhouse Sub, prepared within 60 days of the Closing Date in accordance with ASTM Standard E 1527-00;

(u) a copy of a final “**as-built**” ALTA survey of the Real Property certified within 60 days of the Closing Date, or less if required by the title insurance company issuing the title policy. Such survey shall be certified to Roadhouse Sub and the title company as being true and accurate identifying thereon all easements, building lines, flood plan and wetlands boundaries, sewage, water, electricity, gas and other utility facilities (together with the recording information concerning the documents creating such easements or other items, roads and means of ingress and egress to and from Franchisee’s real property to all public roads and showing no encroachments onto any adjacent property or onto any building line or easement affecting the property);

(v) an employment agreement with each of Franchisee’s restaurant managers, each in form and substance satisfactory to Roadhouse Sub;

(w) such other documents, instruments and certificates as Roadhouse Sub may request;

(x) the Escrow Agreement;

(y) Declarations executed by each Franchisee equity owner (if not delivered prior to Closing);

(z) an amendment to each Real Property Leases, setting forth such amendments to Franchisee’s real property leases as may be required by Roadhouse Sub, in a form satisfactory to Roadhouse Sub;

(aa) an assignment separate from the certificate or stock power executed in blank by Franchisee and each person receiving Shares upon Franchisee’s dissolution (if not delivered prior to Closing); and

(bb) an opinion of Franchisee’s counsel, in form and substance reasonably satisfactory to Roadhouse.

3.5. Roadhouse Sub’s Deliveries. Roadhouse Sub shall execute and deliver to Franchisee at the Closing the following:

(a) the Purchase Price;

(b) the Assignment and Assumption Agreement;

(c) a certificate executed by an officer of Roadhouse Sub, dated as of the Closing Date, that certifies that the representations and warranties of Roadhouse Sub contained in this Agreement are true and correct as of the Closing Date and that Roadhouse Sub has performed and complied with all covenants and conditions required by this Agreement to be performed and complied with by any of them at or prior to Closing;

(d) a certificate executed by an officer of Roadhouse Sub that certifies the due adoption by Roadhouse Sub of resolutions attached to such certificate authorizing the transactions and the execution and delivery of this Agreement and the other agreements and documents contemplated hereby and the taking of all actions contemplated hereby and thereby; and

(e) the Escrow Agreement.

#### **ARTICLE IV REPRESENTATIONS AND WARRANTIES OF FRANCHISEE AND SHAREHOLDERS**

Franchisee and the Shareholders hereby jointly and severally represent and warrant to Roadhouse and Roadhouse Sub that each of the statements set forth in this Article is true, correct and complete as of the date of this Agreement and will be true, correct and complete as of the Closing Date as though made on such date (unless another date is expressly set forth in such representation or warranty), except as set forth in the disclosure schedule accompanying this Agreement.

4.1. Organization and Authority of Franchisee. Franchisee is a corporation duly organized, validly existing and in good standing under the laws of its State of incorporation and is duly qualified as a foreign corporation and, if applicable, is in good standing in each jurisdiction in which such qualification is required by law. Franchisee has full power and authority to enter into and perform its obligations under this Agreement and under all other agreements, documents and/or instruments to be executed and/or delivered by Franchisee pursuant to or in connection with this Agreement. Franchisee has full power and authority to own, operate and/or hold under lease the Purchased Assets as, and in the places where, such properties and assets now are owned, operated or held and to transact the business it transacts and proposes to transact.

4.2. Authorization; Enforceability. The execution, delivery and performance by Franchisee of this Agreement and of all of the agreements, documents and/or instruments to be executed and/or delivered by Franchisee pursuant to or in connection with this Agreement have been duly authorized by all necessary corporate action of Franchisee. This Agreement is, and the other agreements, documents and instruments referred to herein will be, when executed and delivered by the parties, the valid, legal and binding obligations of Franchisee and Shareholders, enforceable against Franchisee and Shareholders in accordance with their respective terms, except as may be limited by bankruptcy, insolvency, reorganization or other laws of general application relating to or affecting the enforcement of creditors' rights generally, and except that the availability of the remedy of specific performance or other equitable relief is subject to the discretion of the court before which any proceeding therefor may be brought.

4.3. No Violation or Conflict by Franchisee. The execution, delivery and performance of this Agreement by Franchisee and the Shareholders does not and will not violate, conflict with or result in the creation or imposition of any lien, charge or encumbrance under any Law, judgment, order or decree binding on Franchisee or the Articles of Incorporation or the Bylaws of Franchisee, or any contract or agreement to which Franchisee is a party or by which Franchisee or any of the Purchased Assets are bound.

4.4. Title to Assets.

(a) Except as set forth on Schedule 4.4(a), Franchisee has good and marketable title to all of the personal property included among the Purchased Assets owned or purported to be owned by Franchisee hereby and pursuant to the schedules hereto and a good and valid leasehold interest in all property leased by Franchisee and used in connection with the Business, in each case, except as set forth on Schedule 4.4(a), free and clear of all liens, claims and encumbrances. Except as set forth on Schedule 4.4(a), upon delivery of the Purchased Assets at the Closing, good and valid title to the Purchased Assets,

free and clear of all mortgages, liens, claims, pledges, security interests or other encumbrances, will pass to Roadhouse Sub.

(b) Franchisee owns good and marketable title to its respective estates in the Real Property (including any leasehold estate), free and clear of any claims, liens, security interests, mortgages or other encumbrances, other than:

(i) liens for Taxes for the current tax year which are not yet due and payable;  
and

(ii) those described on Schedule 4.4(b) (“**Real Estate Encumbrances**”).

True and complete copies of (A) all deeds, existing title insurance policies and surveys of or pertaining to the Real Property and (B) all instruments, agreements and other documents evidencing, creating or constituting any Real Estate Encumbrances have been delivered to Roadhouse Sub. Franchisee warrants to Roadhouse Sub that, at the time of Closing, the Real Estate shall be free and clear of all Real Estate Encumbrances other than those identified on Schedule 4.4(b) as acceptable to Roadhouse Sub (“**Permitted Real Estate Encumbrances**”).

4.5. Accounts Receivable. The description of the Accounts Receivable contained in Schedule 4.5 is complete and accurate as of the Closing Date. Since the date of the most recently provided interim financial statements, there have been no material changes to the Accounts Receivable, other than changes in the ordinary course of business. The Accounts Receivable constitute, and on the Closing Date, the Accounts Receivable will constitute, all of the Accounts Receivable of the Business related to the Purchased Assets. Except as described on Schedule 4.5, there is not and will not be any liability of Franchisee for any refunds, allowances or returns in respect to products imported, marketed, sold, distributed or shipped by or for the account of Franchisee on or prior to the Closing Date.

4.6. No Litigation. Except as described on Schedule 4.6, there are no actions at law or in equity, or arbitration proceedings, or claims or investigations of which Franchisee has received notice that are pending, or to Franchisee’s knowledge threatened, or state of facts existing, which gives Franchisee any reasonable basis to anticipate any such action, proceeding, claim or investigation. There are no proceedings pending, or to Franchisee’s knowledge threatened, against Franchisee and related to the Business by or before any governmental board, department, commission, bureau, instrumentality or agency, or state of facts existing which gives Franchisee any reasonable basis to anticipate any such proceeding; and Franchisee’s ownership and operation of the Business is not in violation of any order, decree or judgment of any court or arbitration tribunal or governmental board, department, commission, bureau, instrumentality or agency.

4.7. Financial Statements and Financial Condition. The Financial Statements (a) were prepared in accordance with the books of account and records of Franchisee, (b) are true, correct and complete and present fairly the financial position and results of operations of the Business as of the dates and for the periods indicated therein, (c) make full and adequate disclosure of, and provision for, all obligations and liabilities of the Business as of the dates thereof, and (d) were prepared in conformity with GAAP (except with respect to interim financial statements that are subject to normal year-end adjustments that will not be material).

4.8. Liabilities and Obligations. The Financial Statements reflect all liabilities of Franchisee relating to the Business, accrued, contingent or otherwise, arising out of transactions effected or events occurring on or prior to the date of such Financial Statements. All reserves shown in the Financial Statements are appropriate, reasonable and sufficient to provide for the losses contemplated thereby.



Except as set forth in the Financial Statements, Franchisee is not liable upon or with respect to, or obligated in any other way to provide funds in respect of or to guarantee or assume in any manner, any debt, obligation or dividend of any person, corporation, association, partnership, joint venture, trust or other entity which relates to or effects the Business.

#### 4.9. Real Property.

(a) The Real Property Leases listed on Schedule 2.1(n) are the only property of similar type used by Franchisee in the Business. Franchisee's interest in the Real Property Leases is not subject to any liens, claims or encumbrances, except for those set forth in Schedule 4.4(b). True and correct copies of the Real Property Leases have been delivered to Roadhouse Sub by Franchisee. Subject to the terms of the respective Real Property Leases, Franchisee has a valid and subsisting leasehold estate in and the right to quiet enjoyment to the property subject thereto for the full term of the respective Real Property Lease. The Real Property Leases are in full force and effect and are enforceable in accordance with their respective terms, except as such enforceability may be subject to or limited by bankruptcy, insolvency, reorganization or other similar Laws affecting the enforcement of creditors' rights generally. Franchisee has not assigned, pledged, mortgaged, hypothecated or otherwise transferred any Real Property Lease. Franchisee has not sublet all or any portion of any property subject to a Real Property Lease. Franchisee has not received any written notice of default under any Real Property Lease, and to Franchisee's knowledge there is no default by any tenant or landlord under any Real Property Lease, and no event has occurred or failed to occur which, with the giving of notice or the passage of time, or both, would constitute a default under any Real Property Lease. No portion of any parcel of real property owned by Franchisee or subject to a Real Property Lease is located in an area designated as a flood zone by any governmental entity, except as previously disclosed to Roadhouse Sub on a survey. All facilities and improvements on property owned by Franchisee or subject to any Real Property Lease are adequate and suitable for the conduct of the Business and are in good working order and condition, ordinary wear and tear excepted, and are supplied with utilities and other services necessary for their operation in connection with the Business. Schedule 2.1(n) identifies whether the obtaining of landlord consent or other action is required for assignment of such Real Property Leases by Franchisee to Roadhouse Sub.

(b) Schedule 2.1(a) contains a true and correct legal description and street address of all tracts and parcels of land owned or leased by Franchisee.

(c) Use of the Real Property for the various purposes for which it is presently being used is permitted as of right under all applicable zoning legal requirements and is not subject to "**permitted nonconforming**" use or structure classifications. All Improvements are in compliance with all applicable Law, including those pertaining to zoning, building and the disabled, are in good repair and in good condition, ordinary wear and tear excepted, and are free from latent and patent defects. No part of any Improvement encroaches on any real property not included in the Real Property, and there are no buildings, structures, fixtures or other Improvements primarily situated on adjoining property which encroach on any part of the Land. The Land for each owned restaurant abuts on and has direct vehicular access to a public road or has access to a public road via a permanent, irrevocable, appurtenant easement benefiting such Land and comprising a part of the Real Property, is supplied with public or quasi-public utilities and other services appropriate for the operation of the restaurants located thereon and is not located within any flood plain or area subject to wetlands regulation or any similar restriction. To Franchisee's knowledge, there is no existing or proposed plan to modify or realign any street or highway or any existing or proposed eminent domain proceeding that would result in the taking of all or any part of any restaurant or that would prevent or hinder the continued use of any restaurant as heretofore used in the conduct of the business of Franchisee.

4.10. Personal Property; Inventories. Schedule 2.1(b) sets forth a description of all Personal Property of Franchisee, and separately sets forth all Personal Property (other than Excluded Assets) (i) leased by Franchisee, (ii) in the possession of Franchisee and owned by other persons, or (iii) owned by Franchisee and in the possession of other persons. All of the Personal Property is fit for operation in the ordinary course of business as currently conducted, ordinary wear and tear excepted, and all Personal Property is located on premises owned by Franchisee or covered by valid leaseholds. Except as set forth on Schedule 4.10, Franchisee has or will on the Closing Date have the right and authority to transfer all Personal Property to Roadhouse Sub and, upon such transfer, Roadhouse Sub will have good and valid title to such Personal Property free and clear of all liens (including, without limitation, liens for taxes), claims and encumbrances. Each lease or agreement pursuant to which Franchisee leases any Personal Property for use in connection with the Business may be assigned to Roadhouse Sub without any restriction or required consent or other approval. Franchisee does not own material quantities of any inventories of materials, spare parts, work-in-process or finished goods (whether located at or in transit to Franchisee) used in connection with the Business.

4.11. Intellectual Property.

(a) Franchisee owns, or is licensed or otherwise possesses legally sufficient rights to use, all patents, trademarks, trade names, trade secrets, service marks, copyrights, maskworks and any applications therefor, technology, know-how, video and audio compression algorithms, computer software programs or applications (in both source code and object code form) and tangible or intangible proprietary information or material that are used or proposed to be used in the Business (the “**Intellectual Property**”). Schedule 2.1(k) lists all Intellectual Property, and specifies the jurisdictions in which each such Intellectual Property has been issued or registered or in which an application for such issuance and registration has been filed, including the respective registration or application numbers and the names of all registered owners. Schedule 2.1(k) includes and specifically identifies all Intellectual Property owned by or licensed from third parties that are incorporated in, are, or form a part of, any Franchisee product or service, excluding any such intellectual property rights that are available on a commodity basis (such as “**shrink wrap**” licenses) and which are non-exclusive, terminable and available at a standard fee (collectively, “**Third Party Intellectual Property**”). Franchisee has not licensed or entered into agreements with third parties regarding the license, use or restriction on use of any Intellectual Property or Third Party Intellectual Property.

(b) Franchisee is not, nor will it be as a result of the execution and delivery of this Agreement or the performance of its obligations hereunder, in violation of any Third Party Intellectual Property. No claims with respect to the Intellectual Property or Franchisee’s use of any Third Party Intellectual Property are currently pending, or to Franchisee’s knowledge threatened, by any person, nor does Franchisee know of any valid grounds for any bona fide claims. All of the Intellectual Property held by Franchisee is valid and subsisting and there is no unauthorized use, infringement or misappropriation of any Intellectual Property by any third party. Franchisee (i) has not been sued or charged in writing as a defendant in any claim, suit, action or proceeding which involves a claim or infringement of any trade secrets, patents, trademarks, service marks, maskworks or copyrights and has not been informed or notified by any third party that Franchisee may be engaged in such infringement, or (ii) has no knowledge of any infringement liability with respect to, or infringement by, Franchisee of any trade secret, patent, trademark, service mark, maskwork or copyright of another.

4.12. Entire Business. Franchisee has the complete and unrestricted power and the unqualified right to sell, transfer, convey, assign and deliver the Purchased Assets to Roadhouse Sub. The sale of the Purchased Assets by Franchisee to Roadhouse Sub pursuant to this Agreement will effectively convey to Roadhouse Sub the entire Business (other than the Excluded Assets and the Excluded Obligations). The assets, properties and rights which will be owned or possessed by Roadhouse Sub as of the Closing will constitute all of the tangible and intangible property used by Franchisee (whether owned

by it or by any of its affiliates) in connection with the conduct of the Business as heretofore conducted by Franchisee, except for the Excluded Assets.

4.13. Contracts.

(a) Schedule 4.13(a) contains a complete and accurate list of all Contracts to which Franchisee is a party and which in any way relate to the operations or properties of the Business or which are or will be binding upon the Business or the Purchased Assets. Except for the Contracts listed on Schedule 4.13(a) (true and complete copies of which agreements have been previously delivered to Roadhouse Sub or, in the case of oral agreements, descriptions of which are set forth on Schedule 4.13(a)), there are no other Contracts to which Franchisee is party and which relate to the Business or to the Purchased Assets.

(b) Franchisee has performed all obligations required to be performed by it under all Contracts. Neither Franchisee nor any other party to a Contract with Franchisee is in material default under any such Contract, no event exists which with the giving of notice or the passage of time, or both, would create such a default, and Franchisee does not know of any basis for any claim of any such default.

(c) Each Contract has been lawfully entered into and is or will be valid and in full force and effect and is or will be enforceable in accordance with its terms for the period stated in such Contract. There are no currently threatened cancellations of, nor are there any outstanding disputes under, any Contracts.

(d) The consummation of the transactions contemplated by this Agreement does not require any consent under any Contract which will not have been obtained by the Closing (and copies of such consents will be given to Roadhouse Sub on or prior to the Closing Date), and such consummation will not result in the termination of any right or privilege under any Contract. Franchisee has not received notice that any party to any Contract intends to cancel such Contract nor has any party given Franchisee notice of any alleged breach of any Contract or of its intent to take any legal action in order to enforce its rights thereunder. All liabilities and obligations of Franchisee which are due and payable or which are to be performed on or before the Closing Date under such Contracts have been, or will be on the Closing Date, duly paid in full or performed.

(e) Neither Franchisee nor any Franchisee shareholder is a party, nor is the Business bound by, any noncompetition agreement or arrangement or any other agreement or arrangement restricting or prohibiting the way in which the Business is operated other than the Franchise Agreement.

4.14. Certain Transactions. Except as set forth on Schedule 4.14, since \_\_\_\_\_, 20\_\_, Franchisee has conducted the Business only in the ordinary course consistent with past practices and has not, in each case with respect to the business and operations of the Business, (i) paid, or made any accrual or arrangement for the payment of, bonuses or special compensation of any kind or any severance or termination pay to any present or former officer or employee; (ii) made any general wage or salary increases to its employees or increased or altered any other benefits or insurance provided to or maintained on behalf of any employee by it or declared or paid any bonus to any employee; (iii) sold, assigned or transferred or agreed to sell, assign or transfer any of its assets, properties or rights; (iv) granted any rights or licenses under any Intellectual Property or entered into any licensing or distributorship arrangements; (v) canceled or agreed to cancel any debts; (vi) waived or agreed to waive any rights; (vii) made or permitted any amendment or termination of any Contracts; (viii) effected any change in the accounting methods and principles used in connection with its books, records and financial statements; (ix) entered into any transaction other than in the ordinary course of business, except transactions expressly permitted by the terms of this Agreement; (x) suffered any event or condition of any character; (xi) suffered any default

under, or suffered any event which with notice or lapse of time or both would constitute a default under, any Contract, debt instrument or other agreement to which Franchisee is a party or by which it or any of the Purchased Assets is bound; (xii) lost or terminated any employees; or (xiii) terminated (excluding a termination in accordance with its terms) or amended, or suffered a termination or amendment of, any Contract, agreement, lease or license.

#### 4.15. Employees.

(a) Schedule 4.15 contains a list setting forth, (i) the name and current annual salary and other compensation payable by Franchisee to each manager, employee, officer, independent contractor, agent or consultant of Franchisee employed or engaged in connection with the Business (an “**Employee**”); (ii) the profit sharing, bonus or other form of additional compensation paid or payable by Franchisee to or for the benefit of each such person for the current fiscal year; and (iii) any and all loans outstanding from Franchisee to any Employee. There are no oral or written contracts, agreements or arrangements relating to compensation or performance awards or obligating Franchisee to increase the compensation or benefits presently being paid or hereafter payable to any of its employees or other persons. There is not due or owing, and there will not be due and owing at the Closing, to any of Franchisee’s Employees, any sick pay, severance pay (whether arising out of the termination of an Employee of Franchisee prior to or subsequent to the Closing), compensable time or pay, including but not limited to, salary, commission and bonuses, personal time or pay or vacation time or vacation pay attributable to service rendered on or prior to the Closing Date, other than set forth on Schedule 4.15. There is not now, and there will not be as of the Closing Date, any liability of, or claims against, Franchisee (including, without limitation, workers’ compensation claims and claims or suits for contribution to, or indemnification of, third parties, occupational health and safety, environmental, consumer protection or equal employment matters) for injury, sickness, disease, discrimination, death or termination of employment of any employee or other employment matter (including, without limitation, any employee or former employee or any contractor or subcontractor of Franchisee or any agent or distributor of Franchisee); it being understood and agreed that Franchisee shall remain liable for, and indemnify and hold harmless Roadhouse and Roadhouse Sub against, any and all claims, liabilities, damages, losses, costs or expenses, of any nature whatsoever, incurred by Franchisee, or resulting from or relating to any Employees (whether hourly or salaried) of Franchisee, including, but not limited to, those set forth on Schedule 4.15.

(b) Franchisee is not a party to any collective bargaining agreements, written or oral, which cover any employees of the Business. There have not been, and there are no, strikes, grievances, disputes or controversies pending or threatened between Franchisee and any of its employees or any union or other organization claiming to represent such employees’ interests. There is no request for union representation pending and there is no present union organizing or election activities in progress or to Franchisee’s knowledge threatened with respect to any employees of Franchisee. There is no unfair labor practice complaint pending before the National Labor Relations Board or to Franchisee’s knowledge threatened against or relating to Franchisee. The purchase of the Purchased Assets by Roadhouse Sub hereunder will not subject Roadhouse Sub to any absolute or contingent, direct or indirect liability to or claim by Franchisee’s past, present or future employees.

(c) The purchase of the Purchased Assets by Roadhouse Sub will not subject Roadhouse or Roadhouse Sub to any absolute or contingent, direct or indirect liability to or claim by Franchisee’s past, present or future Employees.

#### 4.16. Employee Benefit Plans.

(a) Except as described on Schedule 4.16, Franchisee’s employee handbook contains a true and complete list of each plan, program, policy, practice, contract, agreement or other arrangement

providing for severance, termination pay, stock or stock-related awards, fringe benefits or other employee benefits of any kind, whether formal or informal, proposed or final, funded or unfunded and whether or not legally binding, including, without limitation, each “**employee benefit plan**” within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended (“**ERISA**”) (“**Employee Plan**”) which is now or ever has been maintained, contributed to, or required to be contributed to, for the benefit of any current or former Employee, and each management, employment, severance or consulting agreement or contract between Franchisee and any Employee, including, without limitation, summaries of all oral employment or consulting or similar arrangements between Franchisee and any person which are not terminable without liability on thirty (30) days’ or less prior notice (each, an “**Employee Agreement**”). Franchisee will provide to Roadhouse Sub prior to the Closing true and complete copies of all documents, if any, embodying each Employee Plan and Employee Agreement, and all material communications, if any, to any Employee relating to each Employee Plan. Neither Roadhouse nor Roadhouse Sub shall have any liability with respect to any Employee Plan or Employee Agreement.

(b) Franchisee does not maintain or has ever maintained, contribute or has ever contributed, has the obligation to contribute, or has ever had the obligation to contribute to any Employee Plan which provides, or has any liability to provide, life insurance, medical or other employee welfare benefits to any Employee upon his retirement or termination of employment, except as may be required by statute. Franchisee does not maintain or contribute to any Employee Plan that provides, or has any liability to provide, life insurance, medical or other employee welfare benefits to any employee upon retirement or termination of employment, except as may be required by statute, and Franchisee has never promised, represented to, or contracted with (orally or in writing) any employee (individually or as a group) that life insurance, medical or other employee welfare benefits would be provided upon their retirement or termination of employment, except to the extent required by statute.

(c) Except as set forth on Schedule 4.16, the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not (either alone or when taken together with any additional or subsequent events) constitute an event under any Employee Plan or Employment Agreement with any employee that will or may result in any payment, upon a change in control or otherwise, whether of severance, accrued vacation, or otherwise, acceleration, vesting, distribution, increase in benefits or obligations to fund benefits with respect to any employee.

(d) Franchisee (i) is in compliance with all applicable federal and state laws, rules and regulations respecting employment, employment practices, terms and conditions of employment and wages and hours, in each case, with respect to employees; (ii) has withheld all amounts required by law or by agreement to be withheld from the wages, salaries and other payments to employees; (iii) is not liable for any arrearages of wages or any taxes or any penalty for failure to comply with any of the foregoing; and (iv) (other than routine payments not yet due which are to be made in the normal course of business and consistent with past practice and applicable laws) is not liable for any payment to any trust or other fund or to any governmental or administrative authority, with respect to unemployment compensation benefits, Social Security or other benefits for employees, with the exception of back pay claims and back taxes which will be discharged by Franchisee immediately following Closing.

4.17. Licenses and Permits. Franchisee has all licenses or permits required for the operation of the Business and the operation and use of the Purchased Assets as presently operated or used by it. All licenses and permits held by Franchisee and necessary for the conduct of the Business are valid and in full force and effect and no proceedings which could result in the termination or impairment of any such license or permit are pending or threatened. Schedule 4.17 sets forth a description of all such licenses or permits and identifies whether any consents or notifications are required in connection with the assignment of such licenses and permits to Roadhouse Sub. Franchisee is not in violation of, nor has

Franchisee received any notice of any violation of, nor does any state of facts exist which could lead to a penalty or termination of, any license or permit.

4.18. Insurance. Schedule 4.18 sets forth a true, correct and complete schedule that describes all insurance policies currently maintained by Franchisee in connection with the operation of the Business and the Purchased Assets. All of such insurance policies are now in effect and shall continue to remain in full force and effect through the Closing Date in accordance with their respective terms.

4.19. Taxes. Franchisee has timely and properly filed all federal, state, local and foreign tax returns and reports and forms which it is or has been required to file, either on its own behalf or on behalf of its employees or other persons or entities, including but not limited to income, profits, franchise, sales, use, occupation, property, excise, ad valorem and payroll (including employee taxes withheld) taxes (“**Taxes**”), all such returns, reports and forms being true and complete in all material respects, and has paid all taxes, including penalties and interest, if any, which have become due pursuant to such returns or reports or forms or pursuant to assessments received by Franchisee. Schedule 4.19 sets forth a true, correct and complete schedule that lists all such Taxes and the taxing entity. No tax deficiencies have been determined nor proposed tax assessments charged against Franchisee and there exists no basis for any such deficiencies. No Internal Revenue Service or other governmental taxing authority audit of Franchisee is pending or threatened, and the results of any completed audits are properly reflected in the Financial Statements. Franchisee has not granted any extension to any taxing authority of the limitation period during which any tax liability may be asserted.

4.20. Environmental Matters. Franchisee is currently in compliance with and has not violated Environmental Laws (as defined below) applicable to the Business and/or the Purchased Assets has obtained all permits, licenses and other authorizations needed to operate the Business in compliance with environmental laws and is unaware of any present requirements of any applicable environmental law which is due to be imposed upon it which will increase its cost of complying with environmental laws. All past on-site generation, treatment, storage and disposal of waste, if any (including hazardous waste), at the Business by Franchisee have been done in compliance with the currently applicable environmental laws, and all off-site treatment, storage and disposal of waste (including hazardous waste), if any, generated by Franchisee have been done in compliance with the currently applicable environmental laws. None of the Purchased Assets are comprised of or contain any hazardous substances. The term (i) “**environmental laws**” includes, but is not limited to, any federal, state or local law, statute, charter or ordinance, and any rule, regulation, binding interpretation, binding policy, permit, order, court order or consent decree issued pursuant to any of the foregoing, which pertains to, governs or otherwise regulates any of the following activities, including, without limitation, (A) the emission, discharge, release or spilling of any substance into the air, surface water, groundwater, soil or substrata, and (B) the manufacturing, processing, sale, generation, treatment, storage, disposal, labeling or other management of any waste, hazardous substance or hazardous waste, and (ii) “**waste**,” “**hazardous substance**,” and “**hazardous waste**” include any substance defined as such by any applicable environmental laws.

4.21. Creditors. On or after the Closing Date, neither Roadhouse nor Roadhouse Sub shall be subject to any claim of a creditor of Franchisee, or to any obligation to pay, discharge or satisfy in any manner Franchisee’s liabilities or other obligations as a result of the sale and transfer of the Purchased Assets to Roadhouse Sub under this Agreement, except as expressly assumed by Roadhouse Sub hereunder.

4.22. Compliance with Laws. Franchisee has complied with all laws, statutes, rules, regulations, orders and standards of any federal, state and local agencies and authorities applicable to the Business and the Purchased Assets (including, but not limited to, those concerned with civil rights, labor and discrimination, safety and health, zoning and land use and the environment). The execution, delivery and performance by Franchisee of this Agreement will not (i) conflict with or result in a breach of any of

the terms, provisions or conditions of an order, judgment, decree or ruling of any court, arbitrator or governmental authority applicable to Franchisee or (ii) violate any provision of any statute or other rule or regulation of any governmental authority application to Franchisee.

4.23. Third Party Options. There are no existing contracts, options, commitments or rights with, to or in any third party to acquire the Purchased Assets or any interest therein or in the Business or the Business itself.

4.24. Transactions with Certain Persons. Except as set forth in this Agreement, at and as a result of the Closing, Roadhouse Sub shall not have any obligation or liability to any current or former member, manager or employee of Franchisee or Franchisee's shareholders or any member of any Franchisee shareholder's immediate family or any entity in which such person has a direct or indirect ownership interest.

4.25. Accuracy of Information Furnished. All information furnished to Roadhouse or Roadhouse Sub by Franchisee or the Shareholders herein or in any exhibit or schedule hereto is true, correct and complete. Such information states all facts required to be stated therein or necessary to make the statements therein, in light of the circumstances under which such statements are made, true, correct and complete.

4.26. Warranties. There is no agreement or obligation to which Franchisee is a party, or any claim against or liability of Franchisee, on account of warranties or with respect to the manufacture, sale or rental of defective products or the provision of services, and there is no basis for any such claim on account of defective products heretofore manufactured, sold or rented or services provided that is not fully covered by insurance. Neither Roadhouse nor Roadhouse Sub shall have any liability with respect to any claim against or liability of Franchisee on account of product warranties or with respect to the manufacture, sale or rental of defective products or the provision of services.

4.27. Questionable Payments. Neither Franchisee, Franchisee's shareholders, nor any of Franchisee's current or former officers, directors, employees, agents, or representatives, have in connection with the business or operations of the Business, (i) used any corporate funds for any contributions, gifts, entertainment or other expenses relating to political activity, or used any corporate funds to reimburse any person for any such payment in contravention of any laws, (ii) used any corporate funds for any direct or indirect payments to any foreign or domestic government officials or employees, (iii) violated any provision of the Foreign Corrupt Practices Act of 1977, (iv) established or maintained any unrecorded fund of corporate monies or other assets, (v) made any false or fictitious entries on the books and records of Franchisee, (vi) made any bribe, rebate, payoff, influence payment, kickback or other payment of any nature, or (vii) made any favor or gift which is not deductible for federal income tax purposes.

4.28. Burdensome Obligations. Franchisee is not a party to or bound by any Contract which is so unusual or burdensome as in the foreseeable future could reasonably be expected to have a Material Adverse Effect and Franchisee is not in violation of any law, ordinance, statute, code, rule, regulation, order or decree of the United States, any state, any county, any city, or any other political subdivision in which Franchisee operates pertaining to occupational safety.

4.29. Nature of Investment.

(a) The Roadhouse Common Stock to be received by Franchisee and the Shareholders will be acquired for investment for Franchisee's and the Shareholders' own accounts, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof, and neither Franchisee nor the

Shareholders has a present intention of selling, granting any participation in, or otherwise distributing the same, but subject to the ability of Franchisee to transfer shares to an affiliate (within the meaning of Rule 405 promulgated under the Securities Act) of Franchisee. Neither Franchisee nor the Shareholders has any need for liquidity related to the acquisition of the Roadhouse Common Stock.

(b) Roadhouse has delivered to Franchisee true and complete copies of its (i) Annual Report on Form 10-K for its most recent fiscal year end; (ii) Proxy Statement used in the connection with its most recent Annual Meeting of Stockholders; (iii) most recent Annual Report to Stockholders; (iv) all periodic reports, if any, on Form 8-K filed with the Securities and Exchange Commission since its most recent fiscal year end through the date hereof; and (v) all Forms 10-Q, if any, filed with the Securities and Exchange Commission since its most recent fiscal year end through the date hereof. Both Franchisee and the Shareholders, or a representative thereof, has received and read or reviewed, and is familiar with, this Agreement and the other agreements executed in connection with this Agreement and confirms that all documents, books and records pertaining to Franchisee's and the Shareholders' investment in the Roadhouse Common Stock and requested by Franchisee or its Shareholders have been made available.

(c) Franchisee and the Shareholders have had an opportunity to ask questions and receive answers from Roadhouse regarding the terms and conditions of the offering of the Roadhouse Common Stock and about other information, documents and records relative to Roadhouse's business assets, financial condition, results of operations and liabilities.

(d) Franchisee and each of the Shareholders are experienced investors in securities and acknowledge that they can bear the complete economic risk of their investment and have such knowledge and experience in financial or business matters that they are capable of evaluating the merits and risks of the investment in the Roadhouse Common Stock. Franchisee and each of its Shareholders also represent they each are either (i) an "**accredited investor**" within the meaning of Rule 501(a) promulgated under the Securities Act, or (ii) a non-accredited investor who will rely upon the advice of an investment advisor in connection with the transactions contemplated by this Agreement.

(e) The purchase of the Roadhouse Common Stock by Franchisee and the Shareholders is consistent with the general investment objectives of Franchisee and the Shareholders. Franchisee and each of the Shareholders understand that the purchase of the Roadhouse Common Stock involves a high degree of risk.

(f) Franchisee and the Shareholders understand that the Roadhouse Common Stock they are purchasing are characterized as "**restricted securities**" under the federal securities laws inasmuch as they are being acquired from Roadhouse in a transaction not involving a public offering and that under such laws and applicable regulations such securities may not be resold without registration under the Securities Act and applicable state securities laws, except in certain limited circumstances. In this connection, Franchisee and the Shareholders represent that it is familiar with Rule 144 under the Securities Act, as presently in effect, and understand the resale limitations imposed thereby and by the Securities Act. Franchisee and the Shareholders agree that in no event will they make a transfer or disposition of any of the Roadhouse Common Stock unless and until, if requested by Roadhouse, they shall have furnished to Roadhouse (at the expense of Franchisee or the Shareholders or their respective transferees) an opinion of counsel or other evidence, reasonably satisfactory to Roadhouse, to the effect that such transfer may be made without restrictions under the Securities Act. Franchisee and the Shareholders understand that Roadhouse is under no obligation to register any of the securities sold hereunder.

(g) The Roadhouse Common Stock shall not be registered under the Securities Act at the time of issuance, and as such shall constitute "**restricted securities**" within the meaning of Rule 144 under the Securities Act and the Roadhouse Common Stock shall be available for sale in the public market



only in compliance with Rule 144. The Roadhouse Common Stock shall bear a legend substantially as follows:

THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR ANY STATE SECURITIES LAWS. THEY MAY NOT BE SOLD OR OFFERED FOR SALE IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT AS TO THE SECURITIES UNDER SAID ACT AND ANY APPLICABLE STATE SECURITIES LAW OR OTHER EVIDENCE SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED.

4.30. Books of Accounts. The books of account of Franchisee have been kept accurately in the ordinary course of its business in accordance with generally accepted accounting principles, the transactions entered therein represent bona fide transactions and the revenues, expenses, assets and liabilities of Franchisee have been properly recorded in such books.

4.31. Consents. No authorization, consent, approval, permit or license of, or filing with, any governmental or public body or authority, any lender or lessor or any other person or entity is required to authorize, or is required in connection with, the execution, delivery and performance of this Agreement or the agreements contemplated hereby on the part of Franchisee.

4.32. Broker Fees. Neither Franchisee nor any Shareholder has any liability or obligation to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement.

4.33. Subsidiaries; Joint Ventures. Except as described in Schedule 4.33, Franchisee does not have any direct or indirect Subsidiaries. Each Subsidiary is wholly owned by Franchisee, and Franchisee has no present intention of disposing of any of the capital stock or equity interests of any such Subsidiary presently owned by Franchisee or allowing any Subsidiary to sell or otherwise dispose of any material portion of such Subsidiary's assets, except for normal dispositions in the ordinary course of business.

4.34. Franchise Agreement. Franchisee and the Shareholders have undertaken all required obligations and are in compliance with the Franchise Agreement and any other documents associated therewith.

4.35. Reorganization Tax Representations.

(a) There is no plan or intention by shareholders of Franchisee who own one percent or more of Franchisee stock, and to the best of the knowledge of management of Franchisee, there is no plan or intention on the part of the remaining shareholders of Franchisee to sell, exchange, or otherwise dispose of a number of shares of Roadhouse Common Stock received in the Transaction that would reduce Franchisee shareholders' ownership of Roadhouse Common Stock to a number of shares having a value, as of the date of the Transaction, of less than 50 percent of the value of all of the formerly outstanding stock of Franchisee, as of the same date. For purposes of the representation, shares of Franchisee stock exchanged for cash or other property, surrendered by dissenters, or exchanged for cash in lieu of fractional shares of Roadhouse Common Stock will be treated as outstanding Franchisee stock on the date of the transaction. Moreover, shares of Franchisee stock and shares of Roadhouse Common Stock held by Franchisee shareholders and otherwise sold, redeemed, or disposed of prior or subsequent to the transaction will be considered in making this representation.

(b) Franchisee is selling at least 90 percent of the fair market value of the net assets, and at least 70 percent of the fair market value of the gross assets held by Franchisee immediately prior to

the Transaction. For purposes of this representation, amounts paid by Franchisee to dissenters, amounts used by Franchisee to pay its reorganization expenses, amounts paid by Franchisee to shareholders who receive cash or other property, and all redemptions and distributions (except for regular, normal dividends) made by Franchisee immediately preceding the transfer will be included as assets of Franchisee held immediately prior to the Transaction.

(c) Franchisee will dissolve and in connection with dissolution, distribute the Roadhouse Common Stock it receives in the Transaction, and its other properties, in pursuance of a plan of reorganization under IRC § 368(a)(1)(C).

(d) The liabilities of Franchisee assumed by Roadhouse Sub and the liabilities to which the transferred assets of Franchisee are subject were incurred by Franchisee in the ordinary course of its business.

(e) Franchisee and the shareholders of Franchisee will pay their respective expenses, if any, incurred in connection with the Transaction.

(f) There is no intercorporate indebtedness existing between Franchisee and Roadhouse or its affiliates that was issued, acquired or will be settled at a discount.

(g) Franchisee is not an investment company as defined in IRC §§ 368(a)(2)(F)(iii) and (iv).

(h) The fair market value of the assets of Franchisee transferred to Roadhouse Sub will equal or exceed the sum of the liabilities assumed by Roadhouse Sub, plus the amount of liabilities, if any, to which the transferred assets are subject.

(i) Franchisee is not under the jurisdiction of a court in a Title 11 or similar case within the meaning of IRC § 368(a)(3)(A).

(j) Franchisee and the Shareholders acknowledge that, except for the representations of Roadhouse and Roadhouse Sub in Section 5.8, none of Roadhouse, Roadhouse Sub or any principal, employee or affiliate of Roadhouse has made any representation or warranty regarding whether the Transaction qualifies for tax-free reorganization treatment under IRC § 368(a)(1)(C) or any other provision of the Code. Franchisee and the Shareholders further acknowledge that they are relying upon their own tax advice regarding the tax consequences of the Transaction.

(k) Franchisee acknowledges that it intends to liquidate after the Closing and distribute the shares of Roadhouse stock received in the Transaction to its Shareholders, with the intention that such liquidation will be consistent with the requirements of IRC § 368(a)(1)(C).

**ARTICLE V  
REPRESENTATIONS AND WARRANTIES OF ROADHOUSE  
AND ROADHOUSE SUB**

Roadhouse and Roadhouse Sub jointly and severally represent and warrant to Franchisee that each of the statements set forth in this Article is true, correct and complete as of the date of this Agreement and will be true, correct and complete as of the Closing Date as though made on such date (unless another date is expressly set forth in such representation or warranty), except as set forth in the disclosure schedules accompanying this Agreement.

5.1. Organization. Roadhouse and Roadhouse Sub are corporations duly and validly existing and in good standing under the laws of Delaware and have full corporate power to enter into and perform their respective obligations under this Agreement and under any other agreements, documents and instruments to be executed and delivered by Roadhouse and Roadhouse Sub pursuant to this Agreement.

5.2. Authorization; Enforceability. The execution, delivery and performance of this Agreement and of all of the agreements, documents and instruments to be executed and delivered by Roadhouse and Roadhouse Sub pursuant to this Agreement have been duly authorized by all necessary corporate action. This Agreement is, and the other agreements, documents and instruments required hereby will be, when executed and delivered by the parties hereto, enforceable against Roadhouse and Roadhouse Sub in accordance with their respective terms, except as may be limited by bankruptcy, insolvency, reorganization or other laws of general application relating to or affecting the enforcement of creditors' rights generally, and except that the availability of the remedy of specific performance or other equitable relief is subject to the discretion of the court before which any proceeding therefor may be brought.

5.3. No Violation or Conflict. The execution, delivery and performance of this Agreement by Roadhouse and Roadhouse Sub does not and will not violate or conflict with any Law, judgment, order, or decree binding on Roadhouse or Roadhouse Sub or the Certificate of Incorporation or Bylaws or any material contract or agreement to which Roadhouse or Roadhouse Sub is a party or by which Roadhouse or Roadhouse Sub, if applicable, is bound.

5.4. Validity of Shares. The Roadhouse Common Stock, when issued in compliance with the provisions of this Agreement, will be validly issued, fully paid and nonassessable, will be free of any liens or encumbrances, and will not be subject to any preemptive rights, rights of first refusal or redemption rights.

5.5. Accuracy of Information Furnished. All information furnished to Franchisee by Roadhouse or Roadhouse Sub herein or in any exhibit or schedule hereto is true, correct and complete. Such information states all facts required to be stated therein or necessary to make the statements therein, in light of the circumstances under which such statements are made, true, correct and complete.

5.6. Broker Fees. Neither Roadhouse nor Roadhouse Sub has any liability or obligation to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement.

5.7. Issuance and Validity of Roadhouse Common Stock. The Roadhouse Common Stock to be issued by Roadhouse to Franchisee pursuant to the term of this Agreement will, when so issued, be validly authorized and issued, fully paid and nonassessable.

5.8. Reorganization Tax Representations.

(i) Roadhouse has no plan or intention to reacquire any of its stock issued in the transaction.

(b) Neither Roadhouse nor Roadhouse Sub has any plan or intention to sell or otherwise dispose of any of the assets of Franchisee acquired in the transaction, except for dispositions made in the ordinary course of business or transfers described in IRC § 368(a)(2)(C).

(c) Following the transactions described in this Agreement, Roadhouse Sub will continue the historic business of Franchisee or use a significant portion of Franchisee's historic business assets in a business.

(d) Roadhouse will pay its shares of expenses, if any, incurred in connection with the transactions contemplated by this Agreement.

(e) There is no intercorporate indebtedness existing between Roadhouse and Franchisee that was issued, acquired or will be settled at a discount.

(f) Neither Roadhouse nor Roadhouse Sub are investment companies as defined in IRC §§ 368(a)(2)(F)(iii) and (iv).

(g) The fair market value of the assets of Franchisee transferred to Roadhouse Sub will equal or exceed the sum of the liabilities assumed by Roadhouse Sub, plus the amount of liabilities, if any, to which the transferred assets are subject.

(h) Neither Roadhouse nor Roadhouse Sub owns, directly or indirectly, nor has it owned during the past five years, directly or indirectly, any stock of Franchisee.

(i) Roadhouse and Roadhouse Sub acknowledges that, except for the representations of Franchisee and the Shareholders in Section 4.35, neither Franchisee or any of its Shareholders has made any representation or warranty regarding whether the Transaction qualifies for tax-free reorganization treatment under IRC § 368(a)(1)(C) or any other provision of the Code. Roadhouse and Roadhouse Sub further acknowledge that they are relying upon their own tax advice regarding the tax consequences of the Transaction.

## **ARTICLE VI COVENANTS**

Franchisee and the Shareholders covenant to Roadhouse Sub, and Roadhouse Sub covenants to Franchisee, as applicable, that from and after the date of this Agreement, without the other parties' prior written consent:

6.1. Carry on in Regular Course. Franchisee shall carry on the Business in a reasonable and prudent manner and only in the regular course and substantially in the same manner as heretofore carried on and use its good faith and reasonable efforts to preserve the Business's properties and existing organization and retain good relationships with employees, customers, suppliers and others with whom it maintains a business relationship. Franchisee shall conduct the Business in compliance with all applicable laws. Franchisee shall not engage in any extraordinary transactions without Roadhouse Sub's prior written consent, including the following: (a) disposing of any assets of Franchisee, except in the ordinary course of business and (b) causing assets of Franchisee to be distributed to any of its members.

6.2. Employee Compensation. Franchisee shall not increase the rate of pay for any employee of the Business except pursuant to a regularly scheduled time for increases, and no bonus, profit sharing, retirement, insurance, death, fringe benefit or other extraordinary or indirect compensation shall accrue, be set aside or be paid to, for or on behalf of any officers or employees of the Business other than as required by presently existing pension, profit sharing, bonus and similar benefit plans as presently constituted, and no agreement or plan other than those now in effect shall be adopted or committed for, except in amounts approved in writing by Roadhouse Sub. Franchisee shall not increase, terminate, amend or otherwise modify any plan for the benefit of any employee without Roadhouse Sub's prior written consent.

6.3. Hiring Employees. Franchisee will cooperate with reasonable requests made by Roadhouse Sub for the purpose of allowing Roadhouse Sub to hire those employees of Franchisee as identified by Roadhouse Sub, as contemplated by Article XI, and such employment shall be effective as of the Closing Date.

6.4. Access. Franchisee will provide Roadhouse Sub with reasonable access to its facilities, books and records and will reasonably cooperate with Roadhouse Sub's due diligence investigation of the Business. Franchisee will provide Roadhouse Sub (and its representatives) with prompt and reasonable access to all employees, premises, properties, books, records, contracts and other documents and information that Roadhouse Sub reasonably deems pertinent in connection with its evaluation and consideration of the transactions contemplated by this Agreement.

6.5. Cooperation. As soon as practical after the date hereof, if they have not previously done so, Roadhouse Sub and Franchisee shall promptly and properly prepare and file all filings required by all Laws relating to the transactions contemplated hereby, and shall cooperate in all respects in connection with the giving of any notices to any governmental authority or securing the permission, approval, determination, consent or waiver of any governmental authority required by Law in connection with the consummation of this Agreement.

6.6. Material Adverse Effect. Prior to the Closing, each party will promptly inform the other parties of the occurrence of any event that has resulted in, or could be expected to result in, a Material Adverse Effect with respect to that party or any event that renders the representations and warranties made in this Agreement to be inaccurate, or any failure of that party to comply with or satisfy any covenant, condition or agreement to be complied with or satisfied under this Agreement. Any such disclosure shall not be deemed a waiver by the other parties of any representation, warranty, covenant or agreement contained in this Agreement.

6.7. Approvals of Governmental Authorities and Third Parties. As soon as practicable after the execution of this Agreement, but in any event prior to the Closing Date, both Franchisee and Roadhouse Sub will secure all necessary approvals and consents of all governmental authorities and other third parties required for the consummation of the transactions contemplated by this Agreement.

6.8. Contracts. Prior to Closing, except with Roadhouse Sub's prior written consent, (a) other than in the ordinary course of the business and operations of the Business and in a manner consistent with past business practices of the Business, Franchisee will not assume or enter into any contract, lease, license, obligation, indebtedness, commitment, purchase or sale relating to the business or operations of the Business involving more than \$1,000 each, and (b) Franchisee will not modify, amend or waive any provisions of any Contract in a manner that would adversely affect Roadhouse Sub's ownership or operation of the Purchased Assets or the Business after the Closing Date, or terminate any Contract.

6.9. Capital Assets. Prior to Closing, except with Roadhouse Sub's prior written consent, Franchisee will not acquire or dispose of any capital asset (other than Excluded Assets) relating to or used or to be used in the Business having a fair market value of \$1,000 or more.

6.10. Mortgages; Liens. Prior to Closing, except with Roadhouse Sub's prior written consent, Franchisee will not enter into or assume any mortgage, pledge, conditional sale or other title retention agreement, or permit any lien, encumbrance or claim of any kind to attach to any of its assets, whether now owned or hereafter acquired, relating to or used or to be used in the Business.

6.11. Supplements to Disclosure Schedules. From time to time prior to the Closing Date, Franchisee and the Shareholders shall promptly provide to Roadhouse Sub proposed supplements or amendments to the schedules to this Agreement with respect to any matter arising or changing that, if existing or occurring as of the date of this Agreement, would have been required to be set forth or described in such schedules; provided, however, any such proposed supplements or amendments to the schedules to this Agreement shall not become part of this Agreement unless and until Roadhouse Sub shall execute an instrument evidencing its agreement thereto, and such proposals shall not be deemed a waiver by Roadhouse Sub of any representation or warranty of Franchisee contained in this Agreement other than as agreed upon in such instrument.

6.12. Taxes and Tax Returns. Franchisee shall pay all applicable sales, transfer, documentary, use and filing fees and taxes that may become due or payable as a result of the sale, conveyance, assignment, transfer or delivery of any of the Purchased Assets. Franchisee will cooperate fully, as and to the extent requested by Roadhouse Sub, in connection with the filing of tax returns and any audit, litigation or other proceeding with respect to taxes.

6.13. Books and Records; Personnel. Franchisee shall make available to Roadhouse Sub for reasonable periods of time Franchisee's personnel to assist Roadhouse Sub in locating and obtaining records and files maintained by Franchisee and any of Franchisee's personnel whose assistance or participation is reasonably required by Roadhouse Sub, in anticipation of, preparation for, or the conduct of any existing or future litigation, tax returns or other matters, in which Franchisee is involved.

6.14. Publicity. No party shall take any action, nor shall it permit any of its employees, officers, directors, as applicable, to take any action that may result in the public disclosure of the transactions contemplated by this Agreement without the consent of the other parties; provided, however, that in the event the disclosing party believes such information is required to be disclosed under applicable law, it may release such disclosure but will use reasonable efforts to give the other parties advance notice of the disclosure; and provided, further, that Roadhouse will be permitted to file this Agreement and to describe the transactions contemplated hereby in filings under the Securities Act.

6.15. Alternative Transactions. From the date of this Agreement through the earlier of the Closing Date or the termination of this Agreement, neither Franchisee nor Shareholders will and Franchisee will cause each of its officers, directors and its legal and financial advisors and affiliates not to, directly or indirectly, make, solicit, encourage, initiate, negotiate or enter into any agreement or agreement in principle, or announce any intention to do any of the foregoing, with respect to any offer or proposal to dispose of all or part of the Business or Purchased Assets (excluding the Excluded Assets) with any party other than Roadhouse Sub (an "**Alternative Transaction**"). Franchisee and the Shareholders shall promptly communicate to Roadhouse Sub the terms of any proposal it may receive in respect of an Alternative Transaction and the identity of such other party and the nature of such proposal, offer or invitation.

6.16. Confidentiality. Franchisee must comply with all confidentiality provisions set forth in the Franchise Agreement. In addition, from the date of this Agreement to the date that is five years after the earlier to occur of the Closing or the termination of this Agreement, each party will keep the nature and terms of the transactions contemplated by this Agreement and all information concerning the other party and its respective business, strictly confidential, using such information solely for the purposes contemplated by this Agreement and disclosing such information only to those persons or agents with a need to know (and then, solely for the purposes of assisting in such purposes and subject to such persons or agents being bound by this section). Such disclosure will be limited to the parties' business and financial advisors (i.e., its lawyer, accountant and/or lender) and Franchisee's equity owners, and the disclosure of such information to any other person will require the prior written consent of the other party. This section will not apply to extent the disclosing party can demonstrate the information (i) is generally available to or known by the public other than as a result of improper disclosure by a the disclosing party, (ii) is obtained by a the disclosing party from a source other than the other party; provided that such source was not bound by a duty of confidentiality with respect to such information, (iii) is independently developed by the disclosing party without the use of the information learned from the other party, or (iv) is required to be disclosed under applicable law. In the event the disclosing party believes such information is required to be disclosed under applicable law, it shall use reasonable efforts to give the other party advance notice of such disclosure. In the event of a termination of this Agreement, each party will promptly return to the other party all notes, memos, reports and other materials provided to such party in connection with this Agreement. Roadhouse Sub and the Shareholders acknowledge that Franchisee's shareholders are aware of the confidential terms of this Agreement and may hold interests in other Texas Roadhouse restaurants. Franchisee and the Shareholders agree to cause Franchisee's shareholders (including the Shareholders) to keep confidential the terms of this Agreement in connection with their communications and activities relating to the shareholders' other non-Franchisee Texas Roadhouse restaurants.

6.17. Trade Secrets. Franchisee and the Shareholders expressly acknowledge they will comply with all confidentiality provisions set forth in the Franchise Agreement, which are currently effective and will continue for that length of time as set forth in the Franchise Agreement.

6.18. Noncompetition. Franchisee and the Shareholders expressly acknowledge they will comply with all noncompetition covenants set forth in the Franchise Agreement, which are currently effective and will continue for that length of time set forth in the Franchise Agreement.

6.19. Additional Remedies. Franchisee and the Shareholders acknowledge and agree that the covenants and agreements contained in Sections 6.17 and 6.18 are of the essence of this Agreement; that each of such covenants is reasonable and necessary to protect and preserve the trade secrets and the legitimate business interests of Roadhouse Sub; that irreparable harm, loss and damage that cannot be remedied in damages in an action at law will be suffered by Roadhouse Sub should Franchisee or the Shareholders breach any of the covenants and agreements contained in those Sections; that a breach of any such covenant and agreement may constitute an infringement of Roadhouse Sub's rights in and to the trade secrets; that each of such covenants or agreements is separate, distinct and severable not only from the other of such covenants and agreements but also from the other and remaining provisions of this Agreement; and that, in addition to other rights and remedies available to it as a matter of law or equity, Roadhouse Sub shall be entitled to an immediate temporary injunction and also to a permanent injunction to prevent a breach or contemplated breach by any of Franchisee or the Shareholders of any of such covenants or agreements. Franchisee and each Shareholder has carefully read and considered the terms and provisions of this Section and agree that the restrictions are fair and reasonable and are reasonably necessary for the protection of the trade secrets and the legitimate business interests of Roadhouse Sub, including Roadhouse Sub's goodwill and substantial relationships with customers. In the event any of the restrictions contained in those sections are held unenforceable as over broad, overlong, not reasonably necessary to protect the legitimate business interests of Roadhouse Sub, or for any other reason, the parties agree that the court shall

modify such restriction and grant the relief necessary to protect such interests. As so modified, such restriction shall be as fully enforceable as if it had been set forth herein by the parties. It is the intent of the parties that the court in so establishing substitute restrictions, recognize that the parties hereto desire that the described restrictions be imposed and maintained to the maximum lawful extent.

6.20. Current Evidence of Title.

(a) As soon as is reasonably possible, and in no event later than twenty (20) business days after the date of this Agreement, Franchisee shall furnish to Roadhouse Sub, at Franchisee's expense, for each parcel, tract or subdivided land lot of Real Property or Ground Lease Property:

(i) from Republic Title of Texas (the "**Title Insurer**");

(A) title commitments issued by the Title Insurer to insure title to all Land, Improvements, insurable Appurtenances, if any, and Ground Lease Property in the amount of that portion of the Purchase Price allocated to the Real Property, as specified in Part 2.5, covering such Real Property, naming Roadhouse Sub as the proposed insured and having an effective date after the date of this Agreement, wherein the Title Insurer shall agree to issue an ALTA 1992 form owner's policy of title insurance (each a "**Title Commitment**"); and

(B) complete and legible copies of all recorded documents listed as Schedule B-1 matters to be terminated or satisfied in order to issue the policy described in the Title Commitment or as special Schedule B-2 exceptions thereunder (the "**Recorded Documents**");

(ii) a survey of the Real Property made after the date of this Agreement by a land surveyor licensed by the state in which the Real Property is located and bearing a certificate, signed and sealed by the surveyor, certifying to Roadhouse Sub and the Title Insurer that:

(A) such survey was made (1) in accordance with "**Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys**," jointly established and adopted by ALTA and ACSM in 1992, and includes Items 1-4, 6, 7(a), 7(b)(1), 7(c), 8-11 and 13 of Table A thereof, and (2) pursuant to the Accuracy Standards (as adopted by ALTA and ACSM and in effect on the date of said certificate) of an "**Urban**" survey; and

(B) such survey reflects the locations of all building lines, easements and areas affected by any Recorded Documents affecting such Real Property as disclosed in the Title Commitment (identified by issuer, commitment number, and an effective date after the date hereof) as well as any encroachments onto the Real Property or by the Improvements onto any easement area or adjoining property (each a "**Survey**"); and

(iii) complete and current searches in the name of Franchisee and other appropriate parties of all Uniform Commercial Code Financing Statements records maintained by the Secretary of State of the state in which Franchisee is incorporated, the state in which Franchisee maintains its principal place of business, each state in which Real Property is located, each jurisdiction in which a filing would be required in order to perfect a security interest in the Purchased Assets, the clerk or recorder of deeds (or other governmental office where real property documents are filed for recording) of each county in which any Real Property is located and wherever else Franchisee or Roadhouse Sub, based upon its investigation, is aware that a Uniform Commercial Code Financing Statement has been filed, together with such releases, termination statements and other documents as may be necessary to provide reasonable evidence that all items of intangible personal property, tangible personal property and fixtures to be sold under this Agreement are free and clear of encumbrances, other than as permitted under this Agreement.



(b) Each Title Commitment shall include the Title Insurer's requirements for issuing its title policy, which requirements shall be met by Franchisee on or before the Closing Date (including those requirements that must be met by releasing or satisfying monetary encumbrances, but excluding encumbrances that will remain after Closing and those requirements that are to be met solely by Roadhouse Sub).

(c) If any of the following shall occur (collectively, a "**Title Objection**"):

(i) any Title Commitment or other evidence of title or search of the appropriate real estate records discloses that any party other than Franchisee has title to the insured estate covered by the Title Commitment;

(ii) any title exception is disclosed in Schedule B to any Title Commitment that is not one of the Permitted Real Estate Encumbrances or one that Franchisee specifies when delivering the Title Commitment to Roadhouse Sub as one that Franchisee will cause to be deleted from the Title Commitment concurrently with the Closing, including (A) any exceptions that pertain to encumbrances securing any loans that do not constitute an Assumed Liability and (B) any exceptions that Roadhouse Sub reasonably believes could materially and adversely affect Roadhouse Sub's use and enjoyment of the Real Property described therein; or

(iii) any Survey discloses any matter that Roadhouse Sub reasonably believes could materially and adversely affect Roadhouse Sub's use and enjoyment of the Real Property described therein;

then Roadhouse Sub shall notify Franchisee in writing of such matters within ten (10) business days after receiving all of the Title Commitment, Survey and copies of Recorded Documents for the Real Property covered thereby.

(d) Franchisee shall use its best efforts to cure each Title Objection and take all steps required by the Title Insurer to eliminate each Title Objection as an exception to the Title Commitment. Any Title Objection that the Title Company is willing to insure over on terms acceptable to Franchisee and Roadhouse Sub is herein referred to as an "**Insured Exception.**" The Insured Exceptions, together with any title exception or matters disclosed by the Survey not objected to by Roadhouse Sub in the manner aforesaid shall be deemed to be acceptable to Franchisee.

(e) Nothing herein waives Roadhouse Sub's right to claim a breach of Section 4.4(b) or to claim a right to indemnification as provided in Section 9.2 if Roadhouse Sub suffers a loss as a result of a misrepresentation with respect to the condition of title to the Real Property.

## **ARTICLE VII CONDITIONS PRECEDENT TO OBLIGATIONS OF ROADHOUSE SUB**

The obligations of Roadhouse Sub to be performed on the Closing Date are subject to the satisfaction prior to or at the Closing of the following conditions precedent:

7.1. Compliance with Agreement. Franchisee and the Shareholders shall have performed and complied, in all material respects, with all of their respective obligations, covenants and agreements under this Agreement which are to be performed or complied with by them prior to the Closing.

7.2. Due Diligence. Roadhouse Sub shall be satisfied with the results of its continuing due diligence review of the Business and the Purchased Assets.

7.3. No Litigation. No investigation, suit, action or other proceeding that questions the validity or legality of the transactions contemplated by this Agreement or that seeks restraint, prohibition, damages or other relief in connection with this Agreement or the consummation of the transactions contemplated by this Agreement shall be pending before any court or governmental agency or threatened. There shall not be in effect any order, decree or injunction of any court that (i) prohibits consummation of this Agreement or the transactions contemplated by this Agreement, (ii) requires Roadhouse Sub to hold separate or dispose of any of the Purchased Assets or (iii) adversely impairs the value of the Purchased Assets or the Business.

7.4. Representations and Warranties. The representations and warranties made by Franchisee and the Shareholders in this Agreement shall be true and correct in all material respects at and as of the date of this Agreement and as of the Closing Date with the same force and effect as though said representations and warranties had been made on the Closing Date.

7.5. Material Adverse Effect. Between the date of this Agreement and the Closing Date, no event shall have occurred or set of facts or circumstances arisen which has resulted in, or could be expected to result in, a Material Adverse Effect on the Purchased Assets or Business.

7.6. Deliveries at Closing. Franchisee and Franchisee's Shareholders shall have delivered to Roadhouse Sub the documents and items specified in Sections 2.2 and 3.4.

7.7. Board Approval. Roadhouse and Roadhouse Sub shall have received approval of the transactions contemplated by this Agreement from its Board of Directors.

7.8. Survey and Title. Title to the real property included among the Purchased Assets shall be such that, at Closing, upon Roadhouse Sub's payment of applicable premiums calculated on the basis of the title company's standard rates, Roadhouse Sub shall be able to obtain policies of title insurance, dated the Closing Date, insuring Roadhouse Sub's ownership interest in each parcel of real property included among the Purchased Assets, for an amount equal to the allocated value of such real property, with such policy terms and exceptions satisfactory to Roadhouse Sub, including, without limitation, that local zoning ordinances, general plans and all other applicable land use regulations and all private covenants, conditions and restrictions, if any, permit the transfer and use of real property (and reconstruction and resumption of use of the Roadhouse restaurants in the event of damage or destruction thereof or cessation of use thereof) for the business presently conducted thereon as a matter of right for an unlimited time period, and specifically not merely as a legal non-conforming use or any other legal status which would by its terms or by operation of law limit the duration of such use or the right to rebuild and resume use of the Texas Roadhouse restaurants for the business presently conducted thereon in the event of damage, destruction or cessation of use for any reason.

## **ARTICLE VIII CONDITIONS PRECEDENT TO OBLIGATIONS OF FRANCHISEE AND SHAREHOLDERS**

The obligations of Franchisee and Shareholders to be performed on the Closing Date are subject to the satisfaction prior to or at the Closing of the following conditions precedent:

8.1. Compliance with Agreement. Each of Roadhouse and Roadhouse Sub shall have performed and complied in all material respects with all of its obligations, covenants and agreements under this Agreement which are to be performed or complied with by it prior to the Closing.

8.2. No Litigation. No investigation, suit, action or other proceeding that questions the validity or legality of the transactions contemplated by this Agreement or that seeks restraint, prohibition, damages or other relief in connection with this Agreement or the consummation of the transactions contemplated by this Agreement shall be pending before any court or governmental agency or threatened. There shall not be in effect any order, decree or injunction of any court that prohibits consummation of this Agreement or the transactions contemplated by this Agreement.

8.3. Representations and Warranties. The representations and warranties made by Roadhouse Sub in this Agreement shall be true and correct in all material respects at and as of the date of this Agreement and as of the Closing Date with the same force and effect as though said representations and warranties had been made on the Closing Date.

8.4. Material Adverse Effect. Between the date of this Agreement and the Closing Date, no event shall have occurred or set of facts or circumstances arisen which has resulted in, or could be expected to result in, a Material Adverse Effect on Roadhouse Sub.

8.5. Deliveries at Closing. Roadhouse Sub shall have delivered to Franchisee the documents and items specified in Section 3.5.

## **ARTICLE IX SURVIVAL AND INDEMNIFICATION**

9.1. Survival of Representations and Warranties. The representations and warranties contained herein, other than the representations and warranties contained in Sections 4.2 (Authorization; Enforceability), 4.4 (Title), 4.9 (Real Property), 4.16 (Employee Benefit Plans), 4.19 (Taxes), and 4.35 (Reorganization Tax Representations), shall survive the Closing for a period of 15 months. The representations and warranties contained in Sections 4.2 (Authorization; Enforceability), 4.4 (Title), 4.9 (Real Property), 4.16 (Employee Benefit Plans), 4.19 (Taxes), and 4.35 (Reorganization Tax Representations), shall survive the Closing until the expiration of the applicable statute of limitations period specified pursuant to applicable Law (but not less than 15 months). If written notice of a claim has been given prior to the expiration of the applicable representations and warranties by a party in whose favor such representations and warranties have been made to the party that made such representations and warranties, the relevant representations and warranties shall survive as to such claim until the claim has been finally resolved. The covenants in Sections 6.1 through 6.4, 6.8, 6.9, 6.11 and 6.15 shall expire at Closing and the remaining covenants shall continue indefinitely unless such covenant specifically provides for a termination date for such covenant's survival.

9.2. Indemnification by Franchisee and Shareholders. Franchisee and each Shareholder, jointly and severally, agree to indemnify, defend and hold harmless Roadhouse and Roadhouse Sub, and each respective director, officer, employee, agent and affiliate of Roadhouse and Roadhouse Sub for all losses, damages, liabilities and claims, and all fees, costs and expenses related to, including, without limitation, attorney fees, arising out of, based upon or resulting from: (i) any breach by Franchisee or a Shareholder of any representation or warranty set forth in this Agreement or in any document delivered thereunder or hereunder; (ii) any failure by Franchisee or a Shareholder to carry out, perform, satisfy and discharge any covenant, agreement, undertaking, liability or obligation to be performed or discharged by either of them pursuant to the terms of this Agreement or any of the documents delivered thereunder or hereunder; (iii) any Excluded Assets; and (iv) the operation of the Business prior to the Closing or Franchisee's ownership of the Purchased Assets prior to the Closing. The indemnification provisions of this Agreement shall not be deemed to preclude or otherwise limit in any way the exercise of any other rights or pursuit of any other remedies for the breach of this Agreement or with respect to any misrepresentation or any breach of warranty by Franchisee or a Shareholder.

9.3. Indemnification by Roadhouse Sub. Roadhouse Sub agrees to indemnify, defend and hold harmless Franchisee and the Shareholders and each officer, director, employee, agent and affiliate of Franchisee for all losses, damages, liabilities and claims, and all fees, costs and expenses related to, including, without limitation, attorney fees, arising out of, based upon or resulting from: (i) any breach by Roadhouse Sub of any representation or warranty set forth in this Agreement or in any document delivered hereunder; (ii) any failure by Roadhouse Sub to carry out, perform, satisfy and discharge any covenant, agreement, undertaking, liability or obligation to be performed or discharged by it pursuant to the terms of this Agreement or any of the documents delivered pursuant to this Agreement; or (iii) any obligation or liability relating to the Business or the Purchased Assets that is expressly assumed under this Agreement. The indemnification provisions of this Agreement shall not be deemed to preclude or otherwise limit in any way the exercise of any other rights or pursuit of any other remedies for the breach of this Agreement or with respect to any misrepresentation or any breach of warranty by Roadhouse Sub.

9.4. Indemnification Limitations. Notwithstanding the indemnification provisions of this Article, no indemnification shall be made by a party until the aggregate indemnification claim or claims by the indemnified party exceeds \$10,000.00, in which event the indemnifying party shall indemnify the indemnified party for the amount in excess of \$10,000.00. The foregoing limitation shall not apply to indemnification claims made by Roadhouse or Roadhouse Sub with respect to Excluded Assets or obligations or liabilities relating to the Business or the Purchased Assets that are not expressly assumed under this Agreement. The aggregate indemnification obligation of each Shareholder shall be limited to the amounts set forth on Schedule 9.4.

9.5. Indemnification Procedures. In the event a claim against an indemnifying party is applicable, the indemnified party shall give prompt notice to the indemnifying party; provided that any failure to provide such notice shall not affect the indemnification obligations of the parties under this Agreement except to the extent such failure materially prejudices the potential defenses of the indemnifying party. The indemnifying party shall have the right to defend, settle or compromise any claim, demand, action or proceeding with counsel of its own choosing which is reasonably acceptable to the indemnified party (unless the indemnified party agrees to assume the cost of the defense and any settlement), at its sole cost and expense; provided, however, that no settlement or compromise may be entered into by the indemnifying party without the prior written consent of the indemnified party. The indemnified party may select counsel to participate in any such defense at its sole cost and expense. In connection with any such claim, action or proceeding, the parties shall cooperate with each other and provide each with access to relevant books and records in their possession.

9.6. Escrow; Right of Set-Off. Upon notice to the Shareholders specifying in reasonable detail a claim for indemnification, if the Shareholders do not satisfy such indemnification claim through a cash payment within a reasonable period of time (not to exceed 30 days), then Roadhouse or Roadhouse Sub may set off any amount to which it may be entitled under this Article IX against the Roadhouse Common Stock held in escrow pursuant to the terms of such Escrow Agreement. The parties agree that for purposes of the set off, the value of a share of Roadhouse Common Stock shall be the average of the market closing price for the five trading days immediately preceding the Closing Date. Neither the exercise nor the failure to exercise such right of set-off or to give a notice of claim under the Escrow Agreement will constitute an election of remedies or limit Roadhouse or Roadhouse Sub in any manner in the enforcement of any other remedies that may be available to them.

## **ARTICLE X TERMINATION**

10.1. Termination. This Agreement may be terminated and the transactions contemplated by this Agreement may be abandoned as follows:

(a) by Roadhouse Sub at any time prior to the Closing with written notice to Franchisee;

(b) by Roadhouse Sub if there has been a material breach of any representation or warranty of Franchisee contained in this Agreement or in any document delivered pursuant to this Agreement or if Franchisee shall have failed to comply in any material respect with any of its covenants or agreements contained in this Agreement or in any document delivered pursuant to this Agreement, and such breach or failure has remained uncured for a period of 10 days from delivery of written notice to Franchisee;

(c) by Franchisee if there has been a material breach of any representation or warranty of Roadhouse Sub contained in this Agreement or in any document delivered pursuant to this Agreement or if Roadhouse Sub shall have failed to comply in any material respect with any of its covenants or agreements contained in this Agreement or in any document delivered pursuant to this Agreement, and such breach or failure has remained uncured for a period of 10 days from delivery of written notice to Roadhouse Sub;

(d) by Roadhouse Sub, if any of the conditions to its obligation to close set forth in Article VII are not satisfied on or before the Closing Date;

(e) by Franchisee, if any of the conditions to its obligations to close set forth in Article VIII are not satisfied on or before the Closing Date; or

(f) by either Franchisee or Roadhouse Sub if any court of competent jurisdiction or other governmental body shall have issued an order, decree or ruling restraining, enjoining or otherwise prohibiting the purchase and sale of the Purchased Assets contemplated by this Agreement.

10.2. Rights on Termination. If this Agreement is terminated pursuant to this Article, all further obligations of the parties under or pursuant to this Agreement shall terminate without further liability of either party to the other, except for the obligations under Section 6.16 (Confidentiality), Section 6.17 (Trade Secrets), Section 6.18 (Noncompetition) and Section 12.2 (Expenses); provided, however, that termination pursuant to Sections 10.1(b) through (e) will not relieve any defaulting or breaching party from liability to the other party. Upon any termination of this Agreement, each party will return all documents, work papers and other material (including all copies) of the other party relating to the transactions contemplated by this Agreement. If Roadhouse Sub terminates this Agreement pursuant to Section 10.1(a) or Section 7.7 without specifying in the notice of termination a reason for termination under Sections 10.1(b), (d), or (f), then Roadhouse Sub shall pay Franchisee's reasonable documented out-of-pocket expenses paid for obtaining title reports, surveys and environmental reports in connection with responding to Roadhouse Sub's due diligence requests relating to the transactions contemplated by this Agreement.

## **ARTICLE XI PERSONNEL**

11.1. Franchisee Employees. Roadhouse Sub or an affiliate may make offers of employment to Franchisee's employees of the Business listed on Schedule 11.1 immediately following the Closing (the "**Franchisee Employees**"). Immediately prior to Closing, Franchisee shall terminate the employment of all of Franchisee Employees as of the Closing Date and Franchisee shall pay all obligations with respect to such Franchisee Employees and fulfill all obligations and applicable employee benefit plans (including severance, wages, commissions, accrued vacation and other benefits) in respect of periods prior to the Closing.

11.2. Terms of Employment. Roadhouse Sub's employment of Franchisee Employees shall be on terms and conditions as Roadhouse Sub and Franchisee Employees shall find mutually acceptable (and may include the requirement by Franchisee Employees to complete applications, to consent to background checks (including but not limited to credit and criminal checks), to be evaluated by personality tests, and to execute customary nondisclosure or noncompetition agreements), and all Franchisee Employees shall be eligible to participate in the employee benefit plans of Roadhouse Sub to the extent similarly situated employees of Roadhouse are eligible to participate in such plans. To the extent permitted by applicable Law, Franchisee Employees shall be given credit for previous employment with Franchisee for purposes of determining eligibility (but not compensation levels) under such plans. Notwithstanding the foregoing, Roadhouse Sub shall have no obligation to provide to Franchisee Employees any term, condition or benefit of employment that is the same as or similar to those provided by Franchisee to Franchisee Employees prior to the Closing, including, but not limited, to those relating to commissions, bonus, profit sharing or other additional compensation, sick pay, severance pay, personal time or pay or pensions. Franchisee shall indemnify, defend and hold harmless Roadhouse and Roadhouse Sub, and their respective affiliates, from and against any liability or obligation to Franchisee Employees or any other employees of Franchisee, other than the obligations specifically undertaken by Roadhouse Sub as set forth above. No provision of this Agreement shall create any third party beneficiary rights in any Franchisee Employees or any beneficiary or dependent thereof with respect to the compensation, terms and conditions of employment and benefits that may be provided to any Roadhouse Employee.

11.3. Payroll Tax. Roadhouse Sub and Franchisee agree to follow the Standard Procedure specified in Rev. Proc. 84-77, 1984-2 C.B. 753, whereby, among other things, each will be responsible for the reporting duties with respect to its own payments of wages and compensation to employees in connection with the operation of the Purchased Assets. In addition, Franchisee agrees to provide to Roadhouse Sub all information reasonably requested by Roadhouse Sub necessary for Roadhouse Sub and Franchisee Employees to receive credit for payroll tax items already paid by Franchisee or Franchisee Employees for any periods prior to the Closing Date.

## **ARTICLE XII MISCELLANEOUS**

12.1. Entire Agreement; Amendment. The Franchise Agreement, this Agreement and the documents referred to in this Agreement constitute the entire agreement between the parties pertaining to the subject matter hereof, and supersede all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no warranties, representations or other agreements between the parties in connection with the subject matter hereof, except as specifically set forth in this Agreement or documents referred to in this Agreement. The Shareholders acknowledge and agree that the restrictive covenants in the Franchise Agreement shall survive the Closing. This Agreement may only be amended or modified by an instrument in writing executed by the parties. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision of this Agreement, whether or not similar, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

12.2. Expenses. Whether or not the transactions contemplated by this Agreement are consummated, each of the parties shall pay their respective fees and expenses incurred in connection with the transactions contemplated by this Agreement.

12.3. Governing Law. This Agreement, including its formation, application, performance, enforcement, the relationship between the parties, and any claims, demands, causes of action and disputes in any way arising out of or related to it, shall be governed, construed and interpreted under the substantive law (and the law of remedies, if applicable) of the Commonwealth of Kentucky. Every

dispute arising out of or connected with this Agreement, or that otherwise arises between the parties, shall be commenced in any state or federal court sitting in Jefferson County, Kentucky, which forum shall be the sole and exclusive jurisdiction and venue for the resolution of such disputes, and to which jurisdiction and venue each party hereby consents and submits for all purposes.

12.4. Succession and Assignment. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. No party may assign any of its rights or delegate any of its duties under this Agreement without the prior written consent of the other parties.

12.5. Notices. All communications, notices and disclosures required or permitted by this Agreement shall be in writing and shall be deemed to have been given at the earlier of the time when actually delivered to an officer of the party to which notice is to be given or when sent by facsimile transmission, overnight courier service or by certified or registered first-class mail, postage prepaid, return receipt requested, addressed as follows, unless and until any party notifies the others in accordance with this Section of a change of address:

If to Roadhouse or Roadhouse Sub:

Texas Roadhouse, Inc.  
6040 Dutchmans Lane  
Louisville, Kentucky 40205  
Attn: Legal Department  
Facsimile: (502) 426-3274

If to Franchisee:

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

Attn: \_\_\_\_\_

Facsimile: \_\_\_\_\_

With a copy to

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

Attn: \_\_\_\_\_

Facsimile: \_\_\_\_\_

12.6. Severability. If any provision, clause, or part of this Agreement, or the application thereof under certain circumstances, is held invalid, the remainder of this Agreement, or the application of such provision, clause, or part under other circumstances, shall not be affected thereby.

12.7. No Reliance. Neither Roadhouse Sub nor Franchisee assume any liability to any person not a party to this Agreement because of any reliance on the representations, warranties, and agreements of Roadhouse Sub or Franchisee contained herein.

12.8. Counterparts. This Agreement and all documents referred to in this Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. All facsimile executions shall be treated as originals for all purposes.

12.9. Specific Performance. Each of the parties agrees that the other parties would be damaged irreparably in the event any of the provisions of this Agreement are not performed in accordance with their terms. Accordingly, each party agrees that the other parties shall be entitled to injunctive relief to prevent breaches of the provisions of this Agreement and to specifically enforce this Agreement in any action, in addition to any other remedy to which such party may be entitled at law or in equity.

12.10. Further Assurances. Upon and subject to the conditions contained in this Agreement, each party agrees, both before and after the Closing, to use reasonable efforts to take all actions and to do all things necessary to consummate and make effective the transactions contemplated by this Agreement.

12.11. Schedules; Exhibits. Each schedule and exhibit delivered pursuant to the terms of this Agreement shall be in writing and shall constitute part of this Agreement.

12.12. Headings. The headings of sections of this Agreement are provided for convenience only and will not affect its construction or interpretation.

12.13. Joint Negotiations; Representation by Counsel. Franchisee, the Shareholders, Roadhouse and Roadhouse Sub each acknowledge that each party to this Agreement has been represented by counsel in connection herewith and the transactions contemplated thereby. In the event of an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party.

12.14. Arbitration. Any disputes arising pursuant to this Agreement shall be settled by arbitration held in Louisville, Kentucky in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect. Upon such a dispute, the parties will mutually agree upon one arbitrator. In the event the parties are unable to agree upon one arbitrator, each party will select one arbitrator, and each of those arbitrators will agree upon a third arbitrator, who will serve as the sole arbitrator for purposes of this Agreement. Judgment upon the award rendered by the arbitrator may be entered in any court having *in personam* and subject matter jurisdiction. The arbitrator will decide any claim or controversy at issue in accordance with the terms of this Agreement, and will not be authorized to award any damages other than direct compensatory damages actually incurred and proven. The expenses of each party, including its share of the cost of the arbitration, will be borne such party. However, in the event either party institutes arbitration as a result of any claim, suit, action or proceeding being asserted against it by a third party arising out of or in connection with a matter for which the other party is alleged to be responsible under this Agreement, the party instituting arbitration may recover any attorney's fees and expenses to which it became subject in connection with the arbitration in the event such party prevails in such arbitration. The applicable provisions of Kentucky law will govern the role of judicial participation in the enforcement of the decision arising from arbitration and any matters not covered by this Section or the American Arbitration Association rules related to arbitration as well as the empowerment of the arbitrator. This provision will not preclude Roadhouse and Roadhouse Sub from obtaining injunctive relief in the appropriate court for breaches or alleged breaches of the covenants contained in Article VI of this Agreement.

**[signature page to follow]**



IN WITNESS WHEREOF, the parties have caused this Agreement and Plan of Reorganization to be duly executed as of the day and year first written above.

TEXAS ROADHOUSE, INC.

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

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

TEXAS ROADHOUSE HOLDINGS LLC

By: TEXAS ROADHOUSE, INC.,  
as Manager

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

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

[FRANCHISEE]

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

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

SHAREHOLDER

\_\_\_\_\_  
Signature

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

**Exhibit A to Agreement and Plan of Reorganization**

**BILL OF SALE**

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, \_\_\_\_\_, a \_\_\_\_\_ corporation (the “**Franchisee**”), does hereby grant, bargain, transfer, sell, assign, convey and deliver to Texas Roadhouse Holdings LLC, a Kentucky limited liability company (“**Roadhouse Sub**”), all right, title and interest in and to the Purchased Assets (as such term is defined in the Agreement and Plan of Reorganization (the “**Purchase Agreement**”), dated as of \_\_\_\_\_, \_\_\_\_\_ by and among Roadhouse Sub, Franchisee, Roadhouse, \_\_\_\_\_ and \_\_\_\_\_). Franchisee for itself, its successors and assigns hereby covenants and agrees that, at any time and from time to time forthwith upon the written request of Roadhouse Sub, Franchisee will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, each and all such further acts, deeds, assignments, transfers, conveyances, powers of attorney and assurances as may reasonably be required by Roadhouse Sub in order to assign, transfer, set over, convey, assure and confirm unto and vest in Roadhouse Sub, its successors and assigns, title to the Purchased Assets sold, conveyed, transferred and delivered by this Bill of Sale at no additional cost or expense to Franchisee. This Bill of Sale is being executed and delivered by Franchisee pursuant to the terms of the Purchase Agreement, and terms not defined in this Bill of Sale shall have the meanings set forth in the Purchase Agreement. Executed at \_\_\_\_\_, \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

[FRANCHISEE]

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

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

\_\_\_\_\_

STATE OF \_\_\_\_\_ )

)

COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, \_\_\_\_\_, before me, \_\_\_\_\_ personally appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public in and for the State of \_\_\_\_\_

Commission Expiration:

\_\_\_\_\_

## Exhibit B to Agreement and Plan of Reorganization

### ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement is made effective as of \_\_\_\_\_, \_\_\_\_\_ by and between \_\_\_\_\_, an \_\_\_\_\_ corporation (“**Assignor**”), and Texas Roadhouse Holdings LLC, a Kentucky limited liability company (“**Assignee**”).

#### Recitals

A. Assignor, Assignee and the other parties named therein have entered into that certain Agreement and Plan of Reorganization (the “**Purchase Agreement**”) dated as of \_\_\_\_\_, \_\_\_\_\_, providing for the transfer, assignment and conveyance of certain tangible and intangible assets of Assignor (the “**Purchased Assets**”) to Assignee;

B. In connection with the transfer of the Purchased Assets to Assignee, Assignor is to assign its rights under those certain Contracts referred to in the Purchase Agreement, and Assignee is to assume Assignor’s obligations thereunder.

C. Assignor desires to assign to Assignee and Assignee desires to assume Assignor’s rights and obligations under the Contracts.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. Assignment. Assignor hereby bargains, sells, assigns, transfers and sets over unto Assignee all of its right, title and interest in and to the Contracts.

2. Assumption of Obligations. Assignee hereby assumes and agrees to pay, perform, and discharge in accordance with the terms thereof, all of the duties, liabilities and obligations of Assignor under the Contracts arising out of or relating to events occurring on or after the date hereof. Assignor and Assignee shall indemnify and hold one another harmless from and against any and all duties, liabilities, obligations and expenses under the Contracts as set forth in the Purchase Agreement.

3. Defined Terms. Terms not defined in this Assignment and Assumption Agreement shall have the meanings set forth in the Purchase Agreement.

[signature page to follow]

IN WITNESS WHEREOF, the parties have executed this Assignment and Assumption Agreement as of \_\_\_\_\_, \_\_\_\_\_ and effective as of the day and year first above written.

**ASSIGNOR:**

[NAME OF ASSIGNOR]

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

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

**ASSIGNEE:**

TEXAS ROADHOUSE HOLDINGS LLC

By: TEXAS ROADHOUSE, INC., as Manager

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

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

## Exhibit C to Agreement and Plan of Reorganization

### ESCROW AGREEMENT

This Escrow Agreement (“**Agreement**”), dated as of \_\_\_\_\_, \_\_\_\_\_ (the “**Closing Date**”), among (i) Texas Roadhouse Holdings LLC, a Kentucky limited liability company, FEIN 31-1515794 (“**Roadhouse Sub**”), (ii) \_\_\_\_\_, a \_\_\_\_\_ corporation, FEIN \_\_\_\_-\_\_\_\_ (“**Franchisee**”), and (iii) JPMorgan Chase Bank, N.A., a national banking association, as escrow agent (“**Escrow Agent**”).

#### Recitals

A. This is the Escrow Agreement referred to in the Asset Purchase Agreement dated \_\_\_\_\_, \_\_\_\_\_ (the “**Purchase Agreement**”) among Roadhouse Sub, Franchisee and certain Franchisee shareholders. Capitalized terms used in this Agreement without definition shall have the respective meanings given to them in the Purchase Agreement.

B. The parties to this Agreement acknowledge that Escrow Agent is not a party to the Purchase Agreement and that all obligations of Escrow Agent are set forth herein.

THE PARTIES, INTENDING TO BE LEGALLY BOUND, HEREBY AGREE AS FOLLOWS:

#### 1. Establishment of Escrow.

(a) Roadhouse Sub and Franchisee hereby appoint Escrow Agent and Escrow Agent accepts appointment, and agrees to act as escrow agent and to hold, safeguard and disburse the Escrow Fund pursuant to the terms and conditions hereof.

(b) Franchisee is depositing with Escrow Agent \_\_\_\_\_ dollars (\$ \_\_\_\_\_) (the “**Escrow Fund**”). Escrow Agent is hereby directed by Franchisee to invest the Escrow Fund, including interest and income earnings, for the benefit of Franchisee in the JPMorgan Chase Bank, N.A. Money Market Deposit Account (“**MMDA**”) or a successor investment offered by Escrow Agent and instructed in writing by Franchisee (with the approval of Roadhouse Sub, which shall not be unreasonably withheld or delayed) and as shall be reasonably acceptable to Escrow Agent. Escrow Agent will provide compensation on balances in the Escrow Fund at the applicable rate for such account/investment. Escrow Agent shall have the right to liquidate any investments held in order to provide funds necessary to make required payments under this Escrow Agreement.

(c) Receipt, investment and reinvestment of the Escrow Fund shall be confirmed by Escrow Agent as soon as practicable by account statement to Franchisee and Roadhouse Sub, and any discrepancies in any such account statement shall be noted by parties to Escrow Agent within thirty (30) calendar days after receipt thereof. Failure to inform Escrow Agent in writing of any discrepancies in any such account statement within said thirty (30) day period shall conclusively be deemed confirmation of the accuracy of such account statement in its entirety.

(d) *In the event funds transfer instructions are given (other than in writing at the time of execution of this Escrow Agreement), whether in writing, by facsimile or otherwise, Escrow Agent is authorized to seek confirmation of such instructions by telephone call-back to the person or persons designated on schedule 1 hereto (“**Schedule 1**”), and Escrow Agent may rely upon the confirmation of anyone purporting to be the person or persons so designated. Each funds transfer instruction shall be made by joint written instruction executed by an authorized signatory of Roadhouse Sub and Franchisee,*

*a list of such authorized signatories is set forth on Schedule 1. Funds transfers contemplated by Section 3 shall be made to accounts designated by Franchisee in writing (the written instruction of Roadhouse Sub not required for such transfer instructions). If Escrow Agent is unable to contact any of the authorized representatives identified in Schedule 1, Escrow Agent shall not be required to make any disbursements until such representative has been contacted. The persons and telephone numbers for call-backs may be changed only in a writing actually received and acknowledged by Escrow Agent. Escrow Agent and the beneficiary's bank in any funds transfer may rely solely upon any account numbers or similar identifying numbers provided by Roadhouse Sub or Franchisee to identify (a) the beneficiary, (b) the beneficiary's bank, or (c) an intermediary bank. Escrow Agent may apply any of the escrowed funds for any payment order it executes using any such written instructions, even when its use may result in a person other than the beneficiary being paid, or the transfer of funds to a bank other than the beneficiary's bank or an intermediary bank designated. The parties acknowledge that these security procedures are commercially reasonable.*

2. **Claims.**

(a) From time to time on or before 5 pm Chicago Time of the first anniversary date of this Agreement, Roadhouse Sub may give notice (a “**Notice**”) to Franchisee and Escrow Agent specifying in reasonable detail the nature and dollar amount of any claim (a “**Claim**”) it may have under Article IX of the Purchase Agreement; Roadhouse Sub may make more than one claim with respect to any underlying state of facts. If Franchisee gives notice to Roadhouse Sub and Escrow Agent disputing any Claim (a “**Counter Notice**”) by 5 pm Chicago Time of the thirtieth (30th) day following receipt by Escrow Agent of the Notice regarding such Claim, such Claim shall be resolved as provided in Section 2(b). If no Counter Notice is received by Escrow Agent within such 30-day period, then the dollar amount of damages claimed by Roadhouse Sub as set forth in its Notice shall be deemed established for purposes of this Agreement and the Purchase Agreement and, on the next business day following the end of such 30-day period, Escrow Agent shall pay to Roadhouse Sub the dollar amount claimed in the Notice from (and only to the extent of) the Escrow Fund. Escrow Agent shall not inquire into or consider whether a Claim complies with the requirements of the Purchase Agreement.

(b) If a Counter Notice is given with respect to a claim, Escrow Agent shall make payment with respect thereto only in accordance with (i) joint written instructions of Roadhouse Sub and Franchisee, or (ii) a final non-appealable order of a court of competent jurisdiction. Any court order shall be accompanied by a legal opinion by counsel for the presenting party satisfactory to Escrow Agent to the effect that the order is final and non-appealable. Escrow Agent shall act on such court order and legal opinion without further question. Notwithstanding the foregoing, Escrow Agent shall pay to Roadhouse Sub, immediately following the receipt of a Counter Notice, the dollar amount equal to the dollar amount claimed in the Notice less the dollar amount disputed in the Counter Notice, if any.

3. **Release of Escrow Funds; Termination of Escrow.**

(a) On the first business day immediately following the date that is six months after the date of this Agreement, Escrow Agent shall pay and distribute from the Escrow Fund to Franchisee fifty percent of the amount originally deposited in the Escrow Fund, minus a sum equal to the amount previously distributed from the Escrow Fund to Roadhouse Sub, if any, during such period, unless (i) any Claims are then pending, in which case an amount equal to the aggregate dollar amount of such Claims (as shown in the Notices of such Claims) shall be retained by Escrow Agent in the Escrow Fund from the amount otherwise to be distributed (and the balance of the amount determined above shall be paid to Franchisee) or (ii) Roadhouse Sub has given notice to Franchisee and Escrow Agent specifying in reasonable detail the nature of any other claim it may have under Article IX of the Purchase Agreement with respect to which it is unable to specify the amount of damages (or a reasonable estimate of the maximum damages), in which

case the entire Escrow Fund shall be retained by Escrow Agent, in either case until it receives joint written instructions of Roadhouse Sub and Franchisee or a final non-appealable order of a court of competent jurisdiction as contemplated by Section 2(b).

(b) On the date that is five (5) business days after the first anniversary date of this Agreement, Escrow Agent shall pay and distribute the remaining balance of the Escrow Fund to Franchisee, unless (i) any Claims are then pending, in which case an amount equal to the aggregate dollar amount of such Claims (as shown in the Notices of such Claims) shall be retained by Escrow Agent in the Escrow Fund (and the balance paid to Franchisee) or (ii) Roadhouse Sub has given notice to Franchisee and Escrow Agent specifying in reasonable detail the nature of any other claim it may have under Article IX of the Purchase Agreement with respect to which it is unable to specify the amount of damages (or a reasonable estimate of the maximum damages), in which case the entire Escrow Fund shall be retained by Escrow Agent, in either case until it receives joint written instructions of Roadhouse Sub and Franchisee or a final non-appealable order of a court of competent jurisdiction as contemplated by Section 2(b).

#### 4. **Duties of Escrow Agent.**

(a) Escrow Agent shall not be under any duty to give the Escrow Fund held by it hereunder any greater degree of care than it gives its own similar property.

(b) Escrow Agent shall not be liable, except for its own gross negligence or willful misconduct and, except with respect to claims based upon such gross negligence or willful misconduct that are successfully adjudicated against Escrow Agent, the other parties hereto shall jointly and severally indemnify and hold harmless Escrow Agent (and any successor Escrow Agent) from and against any and all losses, liabilities, claims, actions, penalties, judgments, settlements, suits, proceedings, litigation, investigations, damages, costs and expenses, including reasonable attorneys' fees and disbursements, arising out of and in connection with (i) Escrow Agent's execution and performance of this Escrow Agreement, or (ii) its following any instructions or other directions, whether joint or singular, from the parties, except to the extent that its following any such instruction or direction is not permitted hereby. Without limiting the foregoing, Escrow Agent shall in no event be liable in connection with its investment or reinvestment of any cash held by it hereunder, in accordance with the terms hereof, including, without limitation, any liability for any delays (not resulting from its gross negligence or willful misconduct) in the investment or reinvestment of the Escrow Fund, or any loss of interest incident to any such delays. Escrow Agent shall have no duty to solicit any payments which may be due it or the MMDA, including, without limitation, the Escrow Fund nor shall Escrow Agent have any duty or obligation to confirm or verify the accuracy or correctness of any amounts deposited with it hereunder. The Parties hereby grant the Escrow Agent a lien on, right of set-off against and security interest in, the Fund for the payment of any claim for indemnification, expenses and amounts due hereunder. In furtherance of the foregoing, the Escrow Agent is expressly authorized and directed, but shall not be obligated, to charge against and withdraw from the Fund for its own account or for the account of an indemnitee any amounts due to the Escrow Agent or to an indemnitee under this Section 4(b).

(c) Escrow Agent shall be entitled to rely upon any order, judgment, certification, demand, notice, instrument or other writing delivered to it hereunder without being required to determine the authenticity or the correctness of any fact stated therein or the propriety or validity of the service thereof. Escrow Agent may act in reliance upon any instrument or signature believed by it to be genuine and may assume that the person purporting to give receipt or advice or make any statement or execute any document in connection with the provisions hereof has been duly authorized to do so. Escrow Agent may conclusively presume that the undersigned representative of any party hereto which is an entity other than a natural person has full power and authority to instruct Escrow Agent on behalf of that party unless written notice to the contrary is delivered to Escrow Agent.

(d) Escrow Agent may act pursuant to the advice of counsel with respect to any matter relating to this Agreement and shall not be liable for any action taken or omitted by it in good faith in accordance with such advice.

(e) Escrow Agent does not have any interest in the Escrow Fund deposited hereunder but is serving as escrow holder only and having only possession thereof. This Section 4(e) and Section 4(b) shall survive notwithstanding any termination of this Agreement or the resignation of Escrow Agent.

(f) Escrow Agent makes no representation as to the validity, value, genuineness or the collectability of any security or other document or instrument held by or delivered to it.

(g) Escrow Agent shall not be called upon to advise or supervise any party as to the wisdom in investing, selling or retaining, or taking or refraining from any action with respect to any securities or other property deposited hereunder.

(h) Anything in this Escrow Agreement to the contrary notwithstanding, in no event shall Escrow Agent be liable for special, incidental, punitive, indirect or consequential loss or damage of any kind whatsoever (including, but not limited to, lost profits), even if Escrow Agent has been advised of the likelihood of such loss or damage and regardless of the form of action.

(i) Escrow Agent (and any successor Escrow Agent) may at any time resign as such by delivering the Escrow Fund to any successor Escrow Agent jointly designated by the other parties hereto in writing, or to any court of competent jurisdiction, whereupon Escrow Agent shall be discharged of and from any and all further obligations arising in connection with this Agreement. The resignation of Escrow Agent will take effect on the earlier of (i) the appointment of a successor (including a court of competent jurisdiction), or (ii) the day which is 30 days after the date of delivery of its written notice of resignation to the other parties hereto. If at that time Escrow Agent has not received a designation of a successor Escrow Agent, Escrow Agent's sole responsibility after that time shall be to retain and safeguard Escrow Fund until receipt of a designation of successor Escrow Agent or a joint written disposition instruction by the other parties hereto or a final non-appealable order of a court of competent jurisdiction. Any entity into which Escrow Agent may be merged or converted or with which it may be consolidated, or any entity to which all or substantially all the escrow business may be transferred, shall be Escrow Agent under this Escrow Agreement without further act.

(j) In the event of any disagreement between the other parties hereto resulting in adverse claims or demands being made in connection with the Escrow Fund or in the event that Escrow Agent is in doubt as to what action it should take hereunder, Escrow Agent shall be entitled to retain the Escrow Fund until Escrow Agent shall have received (i) a final non-appealable order of a court of competent jurisdiction directing delivery of the Escrow Fund, or (ii) a written agreement executed by the other parties hereto directing delivery of the Escrow Fund, in which event Escrow Agent shall disburse the Escrow Fund in accordance with such order or agreement. Any court order shall be accompanied by a legal opinion by counsel for the presenting party satisfactory to Escrow Agent to the effect that the order is final and non-appealable. Escrow Agent shall act on such court order and legal opinion without further question.

(k) Roadhouse Sub shall pay Escrow Agent compensation (as payment in full) for the services to be rendered by Escrow Agent, as described in Schedule 2 attached hereto, in the amount of One Thousand Five Hundred Dollars and No Cents (\$1,500.00) at the time of execution of this Agreement. Any fees or expenses of Escrow Agent, its agents or its counsel that are not paid as provided for herein may be taken from any property held by Escrow Agent hereunder. Roadhouse Sub agrees to deposit into the Escrow



Fund, or directly pay to Franchisee, any amounts taken from the Escrow Fund due to Roadhouse Sub's failure to pay Escrow Agent amounts it is required to pay Escrow Agent under this Agreement.

(l) No printed or other matter in any language (including, without limitation, prospectuses, notices, reports and promotional material) that mentions Escrow Agent's name or the rights, powers, or duties of Escrow Agent shall be issued by the other parties hereto or on such parties' behalf unless Escrow Agent shall first have given its specific written consent thereto.

5. **Limited Responsibility.** This Agreement expressly sets forth all the duties of Escrow Agent with respect to any and all matters pertinent hereto. No implied duties or obligations shall be read into this agreement against Escrow Agent. Escrow Agent shall not be bound by the provisions of any agreement among the other parties hereto except this Agreement.

6. **Notices.** All notices, consents, waivers and other communications under this Agreement must be in writing and will be deemed to have been duly given when (i) delivered by hand (with written confirmation of receipt), (ii) sent by telecopier (with written confirmation of receipt); provided that a copy is mailed by registered mail, return receipt requested, or (iii) when received by the addressee, if sent by a nationally recognized overnight delivery service (receipt requested), in each case to the appropriate addresses and telecopier numbers set forth below (or to such other addresses and telecopier numbers as a party may designate by notice to the other parties):

(a) Franchisee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
Facsimile: \_\_\_\_\_  
Phone: \_\_\_\_\_

with a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
Facsimile: \_\_\_\_\_  
Phone: \_\_\_\_\_

(b) Roadhouse Sub:

Texas Roadhouse Holdings LLC  
6040 Dutchmans Lane  
Louisville, Kentucky 40205  
Attention: Legal Department  
Facsimile No. (502) 426-3274  
Phone: (502) 426-9984

(c) Escrow Agent:

JPMorgan Chase Bank, N.A.  
420 West Van Buren, M/C: IL1-0113  
Attn: Chris Koenig, Escrow Services  
Facsimile No.: (312) 954-0430  
Phone: (312) 954-0115

Notwithstanding the above, in the case of communications delivered to Escrow Agent pursuant to this Section 7, such communications shall be deemed to have been given on the date received by the above listed notice party, an officer of Escrow Agent or any employee of Escrow Agent who reports directly to any such officer at the above-referenced office. In the event that Escrow Agent, in its sole discretion, shall determine that an emergency exists, Escrow Agent may use such other means of communication as Escrow Agent deems appropriate. “**Business Day**” shall mean any day other than a Saturday, Sunday or any other day on which Escrow Agent located at the notice address set forth above is authorized or required by law or executive order to remain closed.

7. **Jurisdiction; Service of Process.** Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement may be brought against any of the parties in the courts of the Commonwealth of Kentucky, County of Jefferson, or, if it has or can acquire jurisdiction, in the United States District Court for the Western District of Kentucky, and each of the parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue laid therein. Process in any action or proceeding referred to in the preceding sentence may be served on any party anywhere in the world. The parties further hereby waive any right to a trial by jury with respect to any lawsuit or judicial proceeding arising out of or relating to this Escrow Agreement.

8. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original and all of which, when taken together, will be deemed to constitute one and the same. All signatures of the parties to this Escrow Agreement may be transmitted by facsimile or electronic transmission, and such transmission will, for all purposes, be deemed to be the original signature of such party whose signature it reproduces, and will be binding upon such party.

9. **Section Headings.** The headings of sections in this Agreement are provided for convenience only and will not affect its construction or interpretation.

10. **Waiver.** The rights and remedies of the parties to this Agreement are cumulative and not alternative. Neither the failure nor any delay by any party in exercising any right, power, or privilege under this Agreement or the documents referred to in this Agreement will operate as a waiver of such right, power, or privilege, and no single or partial exercise of any such right, power, or privilege will preclude any other or further exercise of such right, power, or privilege or the exercise of any other right, power, or privilege. To the maximum extent permitted by applicable law, (a) no claim or right arising out of this Agreement or the documents referred to in this Agreement can be discharged by one party, in whole or in part, by a waiver or renunciation of the claim or right unless in writing signed by the other party; (b) no waiver that may be given by a party will be applicable except in the specific instance for which it is given; and (c) no notice to or demand on one party will be deemed to be a waiver of any obligation of such party or of the right of the party giving such notice or demand to take further action without notice or demand as provided in this Agreement or the documents referred to in this Agreement.

11. **Exclusive Agreement and Modification.** This Agreement supersedes all prior agreements among the parties with respect to its subject matter and constitutes (along with the documents referred to in this Agreement) a complete and exclusive statement of the terms of the agreement between the parties with respect to its subject matter. This Agreement may not be amended except by a written agreement executed by Roadhouse Sub Roadhouse, Franchisee, and Escrow Agent. A person who is not a party to this Agreement shall have no right to enforce any term of this Agreement.

12. **Governing Law.** This Agreement shall be governed by the laws of the Commonwealth of Kentucky without regard to conflicts of law principles.

13. **Compliance with Court Orders.** In the event that any escrow property shall be attached, garnished or levied upon by any court order, or the delivery thereof shall be stayed or enjoined by an order of a court, or any order, judgment or decree shall be made or entered by any court order affecting the property deposited under this Escrow Agreement, Escrow Agent is hereby expressly authorized, in its reasonable discretion, to obey and comply with all writs, orders or decrees so entered or issued, which it is advised by legal counsel of its own choosing is binding upon it, whether with or without jurisdiction, and in the event that Escrow Agent obeys or complies with any such writ, order or decree it shall not be liable to any of the parties hereto or to any other person, entity, firm or corporation, by reason of such compliance notwithstanding such writ, order or decree be subsequently reversed, modified, annulled, set aside or vacated.

14. **Force Majeure.** No party to this Escrow Agreement is liable to any other party for losses due to, or if it is unable to perform its obligations under the terms of this Escrow Agreement because of, acts of God, fire, war, terrorism, floods, strikes, electrical outages, equipment or transmission failure, or other causes reasonably beyond its control.

15. **Anti-Terrorism/Taxpayer Indemnification/Tax Reporting.**

(a) Franchisee certifies that neither Franchisee nor any of Franchisee's Principals, employees, or anyone associated with Franchisee is listed in connection with any Anti-Terrorism Law (including, but not limited to, the Annex to Executive Order 13224 (The Annex is available at <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>), and Franchisee agrees not to hire or have any dealings with a person so listed. Franchisee further certifies that Franchisee has no knowledge or information that, if generally known, would result in Franchisee, Franchisee's Principals, employees, or anyone associated with Franchisee being so listed. Franchisee agrees to comply with and/or assist Franchisor to the fullest extent possible in Franchisor's efforts to comply with the Anti-Terrorism Laws and, in connection with such compliance, Franchisee represents and warrants that none of Franchisee's property or interests are subject to being "**blocked**" under any of the Anti-Terrorism Laws and that Franchisee and Franchisee's Principals are not otherwise in violation of any of the Anti-Terrorism Laws. Franchisee is solely responsible for ascertaining the actions it must take to comply with all Anti-Terrorism Laws, and Franchisee specifically acknowledges and agrees that its indemnification responsibilities as provided in this Agreement pertain to its obligations under this Section 15.(a). Any misrepresentation by Franchisee under this Section or any violation of the Anti-Terrorism Laws by Franchisee, its owners, or employees shall constitute grounds for immediate termination of this Agreement and any other agreement Franchisee has entered into with Franchisor or one of its affiliates.

(b) **Taxpayer Identification Numbers ("TINs").** The parties have provided Escrow Agent with their respective fully executed Internal Revenue Service ("**IRS**") Form W-8, or W-9 and/or other required documentation. The parties each represent that its correct TIN assigned by the IRS, or any other taxing authority, is set forth in the delivered forms, as well as in a Substitute IRS Form W-9 set forth on the signature page of this Agreement.

(c) **Tax Reporting.**

Roadhouse Sub and Franchisee further represent to Escrow Agent that the transaction memorialized in the Purchase Agreement does not: (i) constitute an installment sale requiring any tax reporting by Escrow Agent or withholding of imputed interest or original issue discount to the IRS or other taxing authority; and (ii) that no portion of the principal amount of the Escrow Fund represents any portion of the purchase price for shares of stock under the Purchase Agreement.

In addition, all interest or other income earned under this Escrow Agreement shall be allocated to Franchisee and reported, as and to the extent required by law, by Escrow Agent to the IRS, or any other taxing authority, on IRS Form 1099 or 1042S (or other appropriate form) as income earned from the Escrow Fund by Franchisee whether or not said income has been distributed during such year. Any other tax returns required to be filed will be prepared and filed by Franchisee and/or Roadhouse Sub with the IRS and any other taxing authority as required by law, including, but not limited to, any applicable reporting or withholding pursuant to the Foreign Investment in Real Property Tax Act (“**FIRPTA**”). Franchisee and Roadhouse Sub acknowledge and agree that Escrow Agent shall have no responsibility for the preparation and/or filing of any tax return or any applicable FIRPTA reporting or withholding with respect to the Escrow Fund or any income earned by the Escrow Fund. Franchisee and Roadhouse Sub further acknowledge and agree that any taxes payable from the income earned on the investment of any sums held in the Escrow Fund shall be paid by Franchisee. In the absence of written direction from Franchisee and Roadhouse Sub, all proceeds of the Escrow Fund shall be retained in the Escrow Fund and reinvested from time to time by Escrow Agent as provided in this Agreement. Escrow Agent shall withhold any taxes it deems required to be withheld by law, including, but not limited to, required withholding in the absence of proper tax documentation, and shall remit such taxes to the appropriate authorities.

[signature pages to follow]

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date first written above.

<b>Tax Certification: Taxpayer Identification Number (TIN):</b> _____ <b>Social Security Number</b> _____ <b>Date:</b> _____	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>or</b>			
<b>Name &amp; Address:</b> _____	<input type="text"/>	<input type="text"/>	

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<b>Customer is a (check one):</b>
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<b>Corporation</b> _____ <b>Partnership</b> _____ <b>Individual/sole proprietor</b> _____ <b>Trust</b> _____ <b>Limited liability company</b> _____ <b>Enter the tax classification (D=disregarded entity, C=Corporation, P=Partnership)</b> _____ <b>Other</b> _____ Taxpayer is (check if applicable): ____ Exempt from backup withholding <b><i>Under the penalties of perjury, the undersigned certifies that:</i></b> <b><i>(1) the number shown above is its correct Taxpayer Identification Number (or it is waiting for a number to be issued to it);</i></b> <b><i>(2) it is not subject to backup withholding because: (a) it is exempt from backup withholding or (b) it has not been notified by the Internal Revenue Service (IRS) that it is subject to backup withholding as a result of failure to report all interest or dividends, or (c) the IRS has notified it that it is no longer subject to backup withholding; and</i></b> <b><i>(3) It is a U.S. citizen or other U.S. person (defined in the Form W-9 instructions).</i></b> <i>(If the entity is subject to backup withholding, cross out the words after the (2) above.)</i> <i>Investors who do not supply a tax identification number will be subject to backup withholding in accordance with IRS regulations.</i> <b><i>Note: The IRS does not require your consent to any provision of this document other than the certifications required to avoid backup withholding.</i></b>
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TEXAS ROADHOUSE HOLDINGS LLC

By: TEXAS ROADHOUSE, INC.,  
its Manager

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

JPMORGAN CHASE BANK, N.A., as ESCROW AGENT

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

(TIN): Social Security Number	<input type="text"/>	<input type="text"/>	<input type="text"/>	_____
<b>Tax Certification: Taxpayer Identification Number</b>				
or				
<b>Employee Identification Number</b>				
<u>Name &amp; Address:</u>	_____	<input type="text"/>	<input type="text"/>	_____

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<b>Customer is a (check one):</b>
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<p>Corporation _____ Partnership _____ Individual/sole proprietor _____ Trust _____ Limited liability company _____ Enter the tax classification (D=disregarded entity, C=Corporation, P=Partnership) _____ Other _____ Taxpayer is (check if applicable): ____ Exempt from backup withholding</p> <p><b><i>Under the penalties of perjury, the undersigned certifies that:</i></b></p> <p>(1) <b><u>the number shown above is its correct Taxpayer Identification Number (or it is waiting for a number to be issued to it);</u></b></p> <p>(2) <b><u>it is not subject to backup withholding because: (a) it is exempt from backup withholding or (b) it has not been notified by the Internal Revenue Service (IRS) that it is subject to backup withholding as a result of failure to report all interest or dividends, or (c) the IRS has notified it that it is no longer subject to backup withholding; and</u></b></p> <p>(3) <b><u>It is a U.S. citizen or other U.S. person (defined in the Form W-9 instructions).</u></b></p> <p><i>(If the entity is subject to backup withholding, cross out the words after the (2) above.)</i></p> <p><i>Investors who do not supply a tax identification number will be subject to backup withholding in accordance with IRS regulations.</i></p>
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*Note: The IRS does not require your consent to any provision of this document other than the certifications required to avoid backup withholding.*

[FRANCHISEE]

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

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

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



*SCHEDULE 1*

(b) Telephone Number(s) and authorized signature(s) for

(c) Person(s) Designated to Give and Confirm Funds Transfer Instructions

If to Roadhouse Sub:

	<u>Name</u>	<u>Telephone Number</u>	<u>Signature</u>
1.	Christopher C. Colson	(502) 638-5429	_____
2.	_____		_____
3.	_____		_____

If to Franchisee:

1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____

Telephone call backs shall be made to both parties if joint instructions are required pursuant to this Agreement. All funds transfer instructions must include the signature of the person(s) authorizing said funds transfer and must not be the same person confirming said transfer.



**Schedule 2**  
**Escrow Agent's Compensation:**

**New Account Acceptance Fee . . . . . Waived**  
One-time fee payable upon Account Opening

A New Account Acceptance Fee will be charged for the Bank's review of the Escrow Agreement along with any related account documentation.

**Minimum Administrative Fee . . . . . \$1,500**  
Payable upon Account Opening and in Advance  
of each year of service as Escrow Agent

The Administrative Fee will cover the Bank's standard Escrow services including, but not limited to, account setup, safekeeping of assets, investment of funds, collection of income and other receipts, preparation of statements comprising account activity and asset listing, and distribution of assets in accordance with the specific terms of the Escrow Agreement. These fees cover a full year, or any part thereof, and thus are not prorated in the year of termination. The account will be invoiced in the month in which the account is opened and annually thereafter. Payment of the invoice is due 30 days following receipt.

***Out-of-Pocket Expenses:***

Any reasonable out-of-pocket expenses including attorney's fees will be considered extraordinary services for which related costs, transaction charges, and additional fees will be billed at cost, provided that the parties have been made aware of their cost in advance of their performance.

***Modification of Fees:***

Circumstances may arise necessitating a change in the foregoing fee schedule. The Bank will maintain the fees at a level that is fair and reasonable in relation to the responsibilities assumed and the duties performed.

***Disclosure & Assumptions:***

- The fees quoted in this schedule assume that the escrow deposit will be continuously invested in the JPMorgan Chase Bank Money Market Account.
- U.S. law permits the parties to make up to six (6) pre-authorized withdrawals from an MMDA per calendar month or statement cycle or similar period. If the MMDA can be accessed by checks, drafts, bills of exchange, notes and other financial instruments ("**Items**"), then no more than three (3) of these six (6) transfers may be made by an Item. Escrow Agent is required by U.S. law to reserve the right to require at least seven (7) days' notice prior to a withdrawal from an MMDA. Escrow Agent does not presently exercise this right.

**Exhibit D to Agreement and Plan of Reorganization**

**ASSIGNMENT SEPARATE FROM CERTIFICATE**

*For Value Received,* \_\_\_\_\_ *I* \_\_\_\_\_

*hereby sell, assign and transfer unto* \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
*(\_\_\_\_\_)* *Shares of the Class A Common Stock of Texas Roadhouse, Inc. (the "Company") standing in my name on the books of the Company and do hereby irrevocably appoint* \_\_\_\_\_ *attorney to transfer the said stock on the books of the Company with full power of substitution in the premises.*

*Dated* \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

## Exhibit E to Agreement and Plan of Reorganization

### DECLARATION

In connection with the potential acquisition (the “**Purchase Transaction**”) by Texas Roadhouse Holdings LLC (“**Buyer**”) of substantially all of the assets of \_\_\_\_\_ (the “**Company**”) pursuant to an Agreement and Plan of Reorganization by and among Buyer, Texas Roadhouse, Inc., the Company and certain Company shareholders (the “**Purchase Agreement**”), Texas Roadhouse, Inc. (“**Parent**”) is required to determine whether you meet the investor suitability standards imposed by Regulation D of the Securities Act of 1933, as amended (the “**Securities Act**”). Pursuant to the Purchase Agreement, Parent plans to offer Texas Roadhouse, Inc. Class A common shares (the “**Parent Stock**”), in reliance on an exemption from the registration requirements of the Securities Act and exemptions from applicable state securities laws. If the selling party in the Purchase Transaction is an S corporation, limited liability company or limited partnership, then this Declaration must be completed by each equity owner of such selling party.

The undersigned understands that the information provided in the attached Declaration will be relied upon by Parent in its offering of Parent Stock pursuant to the aforesaid exemptions. All capitalized terms not otherwise defined herein shall have the meaning ascribed thereto in the Purchase Agreement.

**Please complete and return this Declaration on or before \_\_\_\_\_ to:**

**Texas Roadhouse, Inc.**  
Attention: Legal Department  
6040 Dutchmans Lane  
Louisville, KY 40205  
(504) 426-9984  
Fax: (502) 426-3274  
**legal@TexasRoadhouse.com**

Please respond to every item, even if your response is “**none**.” If you need more space for any response, please attach additional sheets of paper. Please be sure to indicate your name and the number of the item being responded to on each such additional sheet of paper, and to sign each such additional sheet of paper before attaching it to the Declaration. Please note that you may be asked to answer additional questions depending on your responses to the following questions.

### Accredited Investor

The undersigned hereby represents and warrants whether he, she or it is an “**Accredited Investor**” within the meaning of Regulation D of the Securities Act based upon whether he, she or it satisfies at least one of the following requirements (check all that apply):

\_\_\_\_\_ (1) he or she is a natural person who had an individual income in excess of \$200,000 in each of the two most recent years, or joint income with his or her spouse in excess of \$300,000 in each of those years, and has a reasonable expectation of reaching the same income level in the current year;

\_\_\_\_\_ (2) he or she is a natural person whose individual net worth, or joint net worth with his or her spouse, at the time of purchase exceeds \$1,000,000;

\_\_\_\_\_ (3) it is a bank as defined in section 3(a)(2) of the Securities Act, or a savings and loan association or other institution as defined in section 3(a)(5)(A) of the Securities Act whether acting in its individual or fiduciary capacity; a broker dealer registered pursuant to section 15 of the Securities Exchange Act of 1934; an insurance company as defined in section 2(13) of the Securities Act; an investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2(a)(48) of the Securities Act; a Small Business Investment Company licensed by the U.S. Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958; a plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of \$5,000,000; an employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974, if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such Act, which is either a bank, savings and loan association, insurance company, or registered adviser, or if the employee benefit plan has total assets in excess of \$5,000,000, or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors;

\_\_\_\_\_ (4) it is a private business development company as defined in section 202(a)(22) of the Investment Advisers Act of 1940;

\_\_\_\_\_ (5) it is an organization described in section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of \$5,000,000;

\_\_\_\_\_ (6) it is a trust, with total assets in excess of \$5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in Rule 506(b)(2)(ii) of the Securities Act; or

\_\_\_\_\_ (7) it is an entity in which all of the equity owners are Accredited Investors under any of paragraphs (1) through (6) above.

\_\_\_\_\_ If none of (1) through (7) above apply, then check this box (i.e., the declarant is not an “**accredited investor**.”

**Sophisticated Investor**

*(Complete only if you are unable to answer affirmatively that you are an Accredited Investor above)*

The undersigned hereby represents and warrants that he, she or it is a sophisticated investor as defined under applicable law based upon the fact that the undersigned satisfies the following requirement:

\_\_\_\_\_ The undersigned has appointed \_\_\_\_\_ as his, her or its Purchaser Representative and relied upon the advice of \_\_\_\_\_ in such capacity to evaluate the merits and risks of an investment in the securities of Texas Roadhouse, Inc.

## Certification

The undersigned represents that:

(a) the undersigned has received and carefully reviewed the form of the Agreement and Plan of Reorganization, the Texas Roadhouse, Inc. Annual Report on Form 10-K for the year ended December \_\_, 20\_\_; Proxy Statement used in the connection with its 20\_\_ Annual Meeting of Stockholders; 20\_\_ Annual Report to Stockholders; all periodic reports, if any, on Form 8-K filed with the Securities and Exchange Commission since \_\_\_\_\_, 20\_\_ to the date hereof; and all Forms 10-Q, if any, filed with the Securities and Exchange Commission since \_\_\_\_\_, 20\_\_ to the date hereof; and any other materials relating thereto that the undersigned has requested;

(b) the undersigned has had an opportunity to ask questions of and receive answers from the authorized representatives of Texas Roadhouse, Inc., and to review any relevant documents and records concerning the business of Texas Roadhouse, Inc. and the terms and conditions of this investment, and that any such questions have been answered to the undersigned's full satisfaction;

(c) no person or entity, other than Texas Roadhouse, Inc. or its authorized representatives, has offered the securities to the undersigned;

(d) the Parent Stock will be acquired for the undersigned's own account for investment and not with a view toward subdivision, resale or redistribution thereof, and the undersigned does not presently have any reason to anticipate any change in circumstances or other particular occasion or event which would cause the undersigned to sell such securities; and

(e) the undersigned has no contract, undertaking, agreement, understanding or arrangement with any person to sell, transfer, or pledge to any person any part or all of the securities which the undersigned is acquiring, or any interest therein, and have no present plans to enter into the same.

The undersigned understands that the information provided in this Declaration will be relied upon by Texas Roadhouse, Inc. in determining whether the offering of Parent Stock in connection with the Purchase Transaction is exempt from the registration requirements of the Securities Act and from applicable state securities laws.

By signing below, the undersigned represents that the information provided herein is accurate and complete.

The undersigned agrees to promptly notify Texas Roadhouse, Inc. of any inaccuracies or changes in the information provided herein that may occur subsequent to the date hereof.

**[signature page to follow]**

**IN WITNESS WHEREOF** the undersigned by authority duly given, has caused this Declaration to be executed and delivered either in person or by its duly authorized agent.

Name: \_\_\_\_\_  
(Please Print)

Signature: \_\_\_\_\_

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

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

Social Security Number or  
Taxpayer ID No. : \_\_\_\_\_



## ADDENDUM TO AGREEMENT AND PLAN OF REORGANIZATION

In the event Roadhouse acquires Franchisee by stock exchange, the following changes to the Agreement and Plan of Reorganization shall be made and the form of agreement shall be as set forth on Exhibit B, as hereinafter modified:

1. The agreement shall be called “**Agreement and Plan of Exchange.**”
2. A newly formed corporation and wholly owned subsidiary of Roadhouse Sub (“**Merger Sub**”) shall be inserted in to the preamble and shall be a party to the agreement for all purposes where applicable, including, without limitation, Articles IV through VII.
3. All references in the Agreement to “IRC § 368(a)(1)(C)” shall be deleted and “IRC § 368(a)(1)(B)” shall be inserted in its place.
4. Recital E shall be inserted and read as follows:

“The parties additionally intend that the forgoing acquisition and stock exchange shall qualify for accounting treatment as a ‘pooling of interests.’”
5. Section 1.1, Defined Terms., shall be revised or modified to include the following defined terms that shall read as follows:

“**Accounts Receivable**’ means all of Franchisee’s accounts receivable, notes, claims and other amounts receivable by Franchisee as a result of Franchisee’s ownership of the Purchased Assets or arising out of the Business, as of the Closing Time, including, but not limited to, amounts due from customers and vendors, whether or not arising in the ordinary course of business.”

“**Certificates**’ has the meaning set forth in Section 2.7(b).”

“**Certificate of Merger**’ has the meaning set forth in Section 2.2.”

“**Contracts**’ means Franchisee’s interest in all real and personal property leases, personal easements, equipment leases, rental agreements, sales and purchase orders and acknowledgments, permits, license and maintenance agreements, third party product agreements, third party supply agreements, promissory notes and other evidences of indebtedness, and related loan and security agreements, and any and all other contracts or binding agreements relating to the Business and all of Franchisee’s interests (including rights to refund and offset), privileges, claims, causes of action and options relating to the Contracts or any portion thereof, which are set forth in further detail on Schedule 1.1(a).”

“**Effective Time**’ has the meaning set forth in Section 2.2.”

“**Escrow Agreement**’ has the meaning set forth in Section 2.6(f).”

“**Exchange Ratio**’ has the meaning set forth in Section 2.6(a).”

“**Franchisee Common Stock**’ means the common stock of Franchisee, par value \$\_\_ per share.”

“**Merger**’ has the meaning set forth in Section 2.1.”

“**Merger Sub**’ means [Merger Sub], a \_\_\_\_\_ corporation.”

“**Merger Sub Common Stock**’ has the meaning set forth in Section 2.6(c).”

“**Non-Assignable Contract**’ means any Contract that is by its terms or by virtue of its subject matter, not assignable without the consent of a third party, all of which are listed on Schedule 1.1(b).”

“**Personal Property**’ means all fixed assets, furniture, property, equipment, fixtures, tools, machinery, office equipment, plant and other tangible personal property related to or used in connection with the Business or located at Franchisee’s place of business, which are set forth in further detail on Schedule 1.1(c).”

“**Personal Property Leases**’ means Franchisee’s interest under leases of equipment and other personal property pertaining to the Business set forth on Schedule 1.1(d).”

“**Purchased Assets**’ means all of the assets, properties, interests, business, goodwill, claims and other rights of Franchisee relating to the Business, whether tangible or intangible, vested or unvested, contingent or otherwise, real, personal or mixed, and wherever located, whether or not reflected on the books and records of Franchisee and whether or not described in this Agreement or in any of the schedules or exhibits to this Agreement, as such existed as of the date hereof, together with additional assets acquired from the date hereof to the Closing Time.”

“**Real Property**’ means all real property of Franchisee including Land and Improvements, leasehold improvements and all Appurtenances thereto and any Ground Lease Property, all as more fully described on Schedule 1.1(e).”

“**Real Property Leases**’ means all leases, including capitalized leases, for real property leased or used by Franchisee in connection with the Business, including those set forth on Schedule 1.1(f).”

“**Records**’ means all business, accounting and financial records, property records, contract records, personnel records, correspondence, files, books and documents of Franchisee relating to the Business, including, without limitation, sales, marketing and advertising data and materials, customer and mailing lists, production reports, equipment logs, guides, vendor and customer invoices, credit reports, billing records, service records, software and related documentation, artwork, photographs, manuals and teaching aids, engineering, maintenance and production records.”

“**Roadhouse Common Stock**’ means the common stock of Roadhouse, par value \$.001 per share.”

“**Stock Rights**’ has the meaning set forth in Section 4.33(b).”

“**Surviving Corporation**’ has the meaning set forth in Section 12.1.”

6. Section 1.1, Defined Terms., shall be further revised by the deletion of the following defined terms so that the Agreement and Plan of Exchange shall be automatically revised to read without reference to the following terms, where applicable:

“**Articles of Dissolution**”

**“Assignment and Assumption Agreement”**

**“Assumed Obligations”**

**“Bill of Sale”**

**“Dissolution Proceedings”**

**“Excluded Assets”**

**“Excluded Contracts”**

**“Excluded Obligations”**

**“Purchase Price”**

7. Article 2 shall be deleted and revised to read as follows:

“2.1 The Merger. At the Effective Time (as defined in Section 2.2) and subject to and upon the terms and conditions of this Agreement and the applicable provisions of \_\_\_\_\_ law, Franchisee shall be merged with and into Merger Sub (the ‘Merger’), the separate corporate existence of Franchisee shall cease and Merger Sub shall continue as the surviving corporation. Merger Sub as the surviving corporation after the Merger is hereinafter sometimes referred to as the ‘**Surviving Corporation**.’”

2.2 Effective Time; Closing. As soon as practicable on or after the Closing Date, and upon the terms and subject to the conditions of this Agreement, the parties hereto shall cause the Merger to be consummated by filing a Certificate of Merger (the ‘Certificate of Merger’) with the Secretary of State of the State of \_\_\_\_\_ in accordance with the applicable provisions of \_\_\_\_\_ law (the time of such filing (or such later time as may be agreed upon in writing by Roadhouse and Franchisee and specified in the Certificate of Merger) being referred to herein as the ‘**Effective Time**’).

2.3 Effect of Merger. At the Effective Time, the effect of the Merger shall be as provided in this Agreement and the applicable provisions of \_\_\_\_\_ law. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time all the property, rights, privileges, powers and franchises of Franchisee and Merger Sub shall vest in the Surviving Corporation, and all debts, liabilities and duties of Franchisee and Merger Sub shall become the debts, liabilities and duties of the Surviving Corporation.

2.4 Certificate of Incorporation; Bylaws. In connection with the filing of the Certificate of Merger, the Certificate of Incorporation and Bylaws of Merger Sub as respectively existing immediately prior to the Effective Time shall be the Certificate of Incorporation and Bylaws of the Surviving Corporation, until amended in the matter provided by law. The Certificate of Incorporation of Merger Sub is not amended by this Agreement.

2.5 Directors and Officers. The initial directors of the Surviving Corporation shall be the directors of Merger Sub immediately prior to the Effective Time until their successors shall have been duly elected and qualified. The initial officers of the Surviving Corporation shall be the officers of Merger Sub immediately prior to the Effective Time until their successors shall have been duly elected and qualified.

2.6 Effect on Capital Stock. Subject to the terms and conditions of this Agreement, at the Effective Time, by virtue of the Merger and without any action on the part of Roadhouse, Merger Sub, Franchisee or the holders of any of the following securities, the following shall occur:

(a) Conversion of Franchisee Common Stock. Each share of Franchisee Common Stock issued and outstanding immediately prior to the Effective Time (other than any share of Franchisee Common Stock to be canceled and extinguished pursuant to Section 2.6(b)) will be automatically converted (subject to Sections 2.6(d) and (e)) into a fraction of a share of Roadhouse Common Stock equal to \_\_\_\_\_ (the 'Exchange Ratio'). The parties acknowledge and agree that the determination of the exchange ratio was mutually agreed upon by the parties and represents certain modifications of the methodologies set forth in the Franchise Agreement, and that, to the extent necessary, the Franchise Agreement is amended and superceded to reflect such modifications to the exchange ratio determination. If any shares of Franchisee Common Stock outstanding immediately prior to the Effective Time are unvested or are subject to a repurchase option, risk of forfeiture or other condition under any applicable restricted stock purchase agreement or other agreement with Franchisee, then, except to the extent otherwise provided in such agreement, the shares of Roadhouse Common Stock issued in exchange for such shares of Franchisee Common Stock will also be unvested and subject to the same repurchase option, risk of forfeiture or other condition, and the certificates representing such shares of Roadhouse Common Stock may accordingly be marked with appropriate legends.

(b) Cancellation of Franchisee-Owned Stock. Each share of Franchisee Common Stock held by Franchisee or any direct or indirect wholly-owned Subsidiary of Franchisee immediately prior to the Effective Time shall be canceled and extinguished without any conversion thereof.

(c) Capital Stock of Merger Sub. Each share of Common Stock, \$\_\_\_ par value per share, of Merger Sub (the '**Merger Sub Common Stock**') issued and outstanding immediately prior to the Effective Time shall be converted into one validly issued, fully paid and nonassessable share of Common Stock, \$\_\_\_ par value per share, of the Surviving Corporation. Each certificate evidencing ownership of shares of Merger Sub Common Stock shall evidence ownership of such shares of capital stock of the Surviving Corporation.

(d) Adjustments to Exchange Ratio. The Exchange Ratio shall be adjusted to reflect appropriately the effect of any stock split, reverse stock split, stock dividend (including any dividend or distribution of securities convertible into or exercisable or exchangeable for Roadhouse Common Stock or Franchisee Common Stock), extraordinary cash dividend, reorganization, recapitalization, reclassification, combination, exchange of shares or other like change with respect to Roadhouse Common Stock or Franchisee Common Stock occurring or having a record date on or after the date hereof and prior to the Effective Time.

(e) Fractional Shares. No fraction of a share of Roadhouse Common Stock will be issued by virtue of the Merger, but in lieu thereof each holder of shares of Franchisee Common Stock who would otherwise be entitled to receive a fraction of a share of Roadhouse Common Stock (after aggregating all fractional shares of Roadhouse Common Stock that otherwise would be received by such holder) shall, upon surrender of such holder's Certificate(s) (as defined in Section 2.7(c)), receive from Roadhouse an amount of cash (rounded to the nearest whole cent), without interest, equal to the product

of (i) such fraction, multiplied by (ii) the average market closing price of the Roadhouse Common Stock for the five trading days immediately preceding the date hereof.

(f) The parties acknowledge that 20% of the shares of Roadhouse Common Stock issued pursuant to Section 2.6(a) shall be held in escrow for a period of six (6) months after the Closing Date, pursuant to the terms of an escrow agreement substantially in the form of the agreement attached as Exhibit C (the '**Escrow Agreement**'). Upon the expiration of the six (6) month period, 10% of the shares held in escrow shall be released to Franchisee's shareholders, minus any shares subject to an indemnification claim by Roadhouse Sub made prior to such date. All shares remaining in escrow on the first anniversary of the Closing Date shall be released to Franchisee's shareholders, minus any shares then subject to an indemnification claim as further set forth in the Escrow Agreement. Franchisee's shareholders shall have the right to vote and receive dividends on such shares while held in escrow.

(g) The parties agree that the determination of the Closing Date Working Capital shall be jointly determined by Roadhouse Sub and Franchisee within 30 days after Closing. If the Closing Date Working Capital is less than the amount set forth on Schedule 2.6(a), then Franchisee shall pay the difference in cash to Roadhouse Sub within 45 days after the Closing Date. If the Closing Date Working Capital is greater than the amount set forth on Schedule 2.6(a), the Roadhouse sub shall pay the difference to Franchisee in cash or Roadhouse Common Stock (using the same price per share as used for purposes of the determination of the Purchase Price) within 45 days after Closing. If there is a disagreement between the parties regarding the determination of Closing Date Working Capital, then the determination of Closing Date Working Capital shall be made by an accounting firm selected by mutual agreement of Roadhouse Sub and Franchisee, or if no agreement can be reached, then by Roadhouse's regularly employed accounting firm, with results of such determination binding on all parties.

## 2.7 Surrender of Certificates.

(a) Roadhouse to Provide Common Stock. Promptly after the Effective Time, Roadhouse shall make available the shares of Roadhouse Common Stock issuable pursuant to Section 2.6(a) in exchange for outstanding shares of Franchisee Common Stock, and cash in an amount sufficient for payment in lieu of fractional shares pursuant to Section 2.6(e).

(b) Exchange Procedures. Promptly after the Effective Time, Roadhouse shall mail to each holder of record (as of the Effective Time) of a certificate or certificates, which immediately prior to the Effective Time represented outstanding shares of Franchisee Common Stock (the '**Certificates**') (i) a letter of transmittal in customary form (which shall specify that delivery shall be effected, and risk of loss and title to the Certificates shall pass, only upon delivery of the Certificates to Roadhouse) and (ii) instructions for use in effecting the surrender of the Certificates in exchange for certificates representing shares of Roadhouse Common Stock pursuant to Section 2.6(a) and cash in lieu of any fractional shares pursuant to Section 2.6(e). Upon surrender of Certificates for cancellation to Roadhouse or to such other agent or agents as may be appointed by Roadhouse, together with such letter of transmittal, duly completed and validly executed in accordance with the instructions thereto, the holders of such Certificates shall be entitled to receive in exchange therefor certificates representing the number of whole shares of Roadhouse Common Stock into which their shares of Franchisee Common Stock were converted pursuant to Section 2.6(a) and payment in lieu of fractional shares which such holders have the right to receive pursuant to Section 2.6(e), and the Certificates

so surrendered shall forthwith be canceled. Until so surrendered, outstanding Certificates will be deemed, from and after the Effective Time, to evidence only the ownership of the number of whole shares of Roadhouse Common Stock into which such shares of Franchisee Common Stock shall have been so converted (including any voting, notice or other rights associated with the ownership of such shares of Roadhouse Common Stock under the Certificate of Incorporation or Bylaws of Roadhouse or under Delaware law) and the right to receive an amount in cash in lieu of the issuance of any fractional shares in accordance with Section 2.6(e).

2.8 No Further Ownership Rights in Franchisee Common Stock. All shares of Roadhouse Common Stock issued in accordance with the terms hereof (including any cash paid in respect thereof pursuant to Section 2.6(e)) shall be deemed to have been issued in full satisfaction of all rights pertaining to such shares of Franchisee Common Stock. There shall be no further registration of transfers on the records of the Surviving Corporation of shares of Franchisee Common Stock which were outstanding immediately prior to the Effective Time. If, after the Effective Time, Certificates are presented to the Surviving Corporation for any reason, they shall be canceled and exchanged as provided in this Article II.

2.9 Lost, Stolen or Destroyed Certificates. In the event that any Certificates shall have been lost, stolen or destroyed, Roadhouse shall issue and pay in exchange for such lost, stolen or destroyed Certificates, upon the making of an affidavit of that fact by the holder thereof, certificates representing the shares of Roadhouse Common Stock into which the shares of Franchisee Common Stock represented by such Certificates were converted pursuant to Section 2.6(a), or cash for fractional shares, if any, as may be required pursuant to Section 2.6(e); provided, however, that Roadhouse, may, in its sole discretion and as a condition precedent to the issuance of such certificates representing shares of Roadhouse Common Stock and the payment of cash and other distributions, require the owner of such lost, stolen or destroyed Certificates to deliver a bond in such sum as it may reasonably direct as indemnity against any claim that may be made against Roadhouse or the Surviving Corporation with respect to the Certificates alleged to have been lost, stolen or destroyed.

2.10 Tax Free Reorganization; Tax and Accounting Consequences.

(a) It is intended by the parties hereto that the Merger shall constitute a reorganization within the meaning of Section 368(a)(1)(B) of the Code. The parties hereto adopt this Agreement as a 'plan of reorganization' within the meaning of Sections 1.368-2(g) and 1.368-3(a) of the United States Treasury Regulations. The parties agree that the Transaction shall be reported for tax purposes in a manner consistent with such treatment.

(b) It is intended by the parties hereto that the Merger shall qualify as a 'pooling of interests' for accounting purposes.

2.11 Taking of Necessary Action; Further Action. If, at any time after the Effective Time, any further action is necessary or desirable to carry out the purposes of this Agreement and to vest the Surviving Corporation with full right, title and possession to all assets, property, rights, privileges, powers and franchises of Franchisee and Merger Sub, the officers and directors of Roadhouse and the Surviving Corporation shall be fully authorized (in the name of Merger Sub, Franchisee, the Surviving Corporation and otherwise) to take all such necessary action."

8. Section 3.1 shall be deleted in its entirety. All other remaining sections in Article 3 shall be re-numbered and all references within the Agreement shall be revised accordingly.

9. Section 3.4, subparagraphs (a), (b), (c), (g), (p), (q) and (s), shall be deleted in their entirety. All other remaining subparagraphs shall be re-numbered and all references within the Agreement shall be revised accordingly.

10. Section 3.5, subparagraph (b), shall be deleted in its entirety. All other remaining subparagraphs shall be re-numbered and all references within the Agreement shall be revised accordingly.

11. All references to “**Schedule 2**” in Article 4 shall be deleted and the appropriate schedule referencing the applicable section in Article 4 shall be inserted in its place, except where such schedule is set forth in “**Schedule 1**” referenced in item 5 above then the “**Schedule 1**” shall be inserted instead. For example, Schedule 4.11(a) would reference Section 4.11(a) of Article 4 (as item 5 lists no schedule relating to Intellectual Property – Section 4.11).

12. Article 4 shall be revised to include the following representations and warranties. Such representations and warranties shall be inserted between Section 4.32, Broker Fees, and Section 4.33, Subsidiaries; Joint Ventures. All other remaining sections shall be re-numbered and all references within the Agreement shall be revised accordingly.

“4.33 Capitalization.

(a) Schedule 4.33 sets forth the authorized capitalization of Franchisee, the number of shares outstanding of Franchisee, and the number of shares owned by each of the stockholders as of the date hereof. No person or entity, other than as shown on Schedule 4.33, owns of record or beneficially any of the outstanding shares of capital stock of Franchisee. At the Effective Time, all of the outstanding shares of Franchisee will be owned of record and beneficially by the stockholders, as set forth in Schedule 4.33, which will comprise all of the issued and outstanding capital stock Franchisee. All of the shares are and will be validly issued and outstanding, fully paid and nonassessable. The outstanding shares are not subject to and were not issued in violation of any preemptive rights. Each share was issued in conformity with applicable law and no party to whom such shares were issued nor any person claiming through any such party has any claim against Franchisee in respect of any such issuance. There are no voting trusts or other agreements or understandings to which Franchisee or Owner is a party with respect to the voting or disposition of the capital stock of Franchisee.

(b) Except as set forth in Schedule 4.33, there are no outstanding subscriptions, options, rights, warrants, convertible securities or other agreements or commitments (“**Stock Rights**”) obligating Franchisee to issue any authorized but unissued shares of capital stock of Franchisee or to transfer from the treasury any additional shares of capital stock or any securities convertible into, or exchangeable or exercisable for, or otherwise evidencing a right to acquire, any shares of capital stock of Franchisee, and no unissued shares of stock are subject to any preemptive rights. No Stock Rights will be outstanding on the Closing Date. There are no outstanding contractual obligations of Franchisee to repurchase, redeem or otherwise acquire any outstanding shares of capital stock of or other ownership interest in Franchisee.

4.34 Board Approval. The Board of Directors of Franchisee has, as of the date of this Agreement, (i) approved, subject to stockholder approval, this Agreement and the Merger and other transactions contemplated hereby and thereby; (ii) determined that the Stock Exchange is consistent with the long-term business strategy of Franchisee and is in the best interests of the stockholders of Franchisee and is on terms that are fair to such stockholders; (iii) adopted a resolution declaring the Merger advisable and (iv) determined unanimously to recommend that the stockholders of Franchisee adopt this Agreement.

4.35 Vote Required. The affirmative vote of holders of a majority of the outstanding shares of Franchisee Common Stock that are shares entitled to vote with respect to the Merger is the only vote of the holders of any class or series of Franchisee's capital stock necessary to adopt this Agreement.

4.36 Pooling of Interests. To its knowledge, based on consultation with its independent accountants, neither Franchisee nor any of its directors, officers or affiliates has taken any action that would interfere with Roadhouse or Roadhouse Sub's ability to account for the Merger as a 'pooling of interests.'

4.37 State Takeover Statutes. No state takeover statute is applicable to the Merger or other transactions contemplated hereby or thereby."

**13.** Section 4.40 (as re-numbered by item 12 above), subparagraphs (c) and (k), shall be deleted in their entirety. All other remaining subparagraphs shall be re-numbered and all references within the Agreement shall be revised accordingly.

**14.** Exhibits A and B shall be deleted in their entirety. All other remaining exhibits shall be re-numbered and all references within the Agreement shall be revised accordingly.

**15.** The above-described revisions, insertions, deletions and modifications shall modify Exhibit B and Exhibit B together with such revisions, insertions, deletions and modifications and shall constitute one instrument and separate form of agreement called "**Agreement and Plan of Exchange.**"

\* \* \* \* \*



**EXHIBIT C**

**CONFIDENTIALITY AGREEMENT**

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

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, between Texas Roadhouse Development Corporation, a Kentucky corporation (“Franchisor”), \_\_\_\_\_ (“Franchisee”) and \_\_\_\_\_ (“Covenantor,” including, without limitation, all Managing Partners executing this Agreement)

**RECITALS**

WHEREAS, Franchisor has developed or has acquired the right to use and license the use of a distinctive system (the “System”) for the development and operation of full-service restaurants under the name and mark Texas Roadhouse (“Restaurants”); and

WHEREAS, the System includes, but is not limited to, certain trade names, service marks, trademarks, logos, emblems and indicia of origin, including, but not limited to, the mark “Texas Roadhouse” and such other trade names, service marks, trademarks, logos, insignia, slogans, emblems, designs and commercial symbols as Franchisor may develop in the future to identify for the public the source of services and products marketed under the System (“Marks”) and certain information, knowledge, know-how, techniques and any materials used in or related to the System which Franchisor provides to Franchisee, or which Franchisee or its Principals (as defined in the Franchise Agreement, described below) or employees develop, in connection with the Franchise Agreement or the operation of the Restaurant thereunder, including, without limitation, any actual or potential recipes, menu items, suppliers, products, services, systems, applications, procedures, or methods of advertising, marketing, training, inventory or financial controls, management, service or procurement and any confidential matter regarding the business of Franchisor or any of its Affiliates (“Confidential Information”); and

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

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

WHEREAS, Franchisor has granted Franchisee the limited right to operate a Restaurant using the System, the Marks and the Confidential Information for the period defined in the Franchise Agreement made and entered into on \_\_\_\_\_, 20\_\_ (“Franchise Agreement”), by and between Franchisor and Franchisee; and

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

WHEREAS, it will be necessary for certain Managing Partners, Market Partners, and other managers, employees, agents, independent contractors, officers, directors and interest holders of Franchisee, or any entity having an interest in the Franchisee (“Covenantor”) to have access to and to use some or all of the Confidential Information in the management and operation of Franchisee’s business using the System; and

WHEREAS, Franchisee has agreed to obtain from those covenantors’ written agreements protecting the Confidential Information and the System against unfair competition; and

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

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

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

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

### **Confidentiality Agreement**

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

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

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

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

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

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

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

8. If Covenantor develops any new concept, process, recipe, menu item, improvement, invention, or work of authorship in the operation or promotion of the Restaurant, alone or jointly with others and within or without the facilities of the Restaurant, before, during or after normal business hours ("Work Product") Covenantor shall promptly notify Franchisee and Franchisor and shall provide them with all necessary related information, without compensation. Covenantor acknowledges that any such Work Product will inure to the benefit of and become the property of Franchisor, and Franchisor may use or

disclose such Work Product to its Franchisees and to its Affiliates, successors and assigns, as it determines to be appropriate. Covenantor shall execute in favor of Franchisor an assignment of (and Covenantor does hereby assign) his or her entire right, title, and interest in and to the Work Product and agrees to execute such other documents and instruments as Franchisor may request. Franchisee and the Controlling Principals further agree to cooperate to the extent and in the manner reasonably requested by Franchisor in the prosecution or defense of any litigation or other proceedings involving any Work Product, but all of Covenantor's reasonable expenses in connection therewith shall be paid by Franchisor. If a copyright registration or patent is filed by or on behalf of Covenantor within one (1) year following the earlier of the termination or expiration of the Franchise Agreement or the time at which Covenantor ceases to be associated with Franchisee, describing a work which relates to the business of Franchisor, it will be conclusively presumed that such work is to be treated as a Work Product for all purposes hereunder.

### **Covenants Not to Compete**

1. In order to protect the goodwill of the System and the confidentiality and value of the Confidential Information, and in consideration for the disclosure to Covenantor of the Confidential Information, Covenantor further agrees and covenants as follows:

a. Not to divert, or attempt to divert, directly or indirectly, any business, business opportunity, or customer of the Franchisee's Restaurant to any Competitive Business (as defined in Attachment A of the Franchise Agreement) of any Texas Roadhouse open or proposed. This means any full-service casual dining restaurant whose menu primarily features steak and ribs (including, by way of example and not limitation, Outback Steakhouse, Longhorn Steakhouse, Lonestar Steakhouse, Logan's Roadhouse, Ryan's, Western Sizzlin, Texas Steakhouse, Colton's, Saltgrass, and/or Golden Corral).

b. Not to employ, or seek to employ, any person who is at the time or was within the preceding twelve (12) months employed by Franchisor or any Franchisee or developer of Franchisor, or otherwise directly or indirectly induce such person to leave that person's employment except as may occur in connection with Franchisee's employment of such person if permitted under the Franchise Agreement.

\*c. Except for the Restaurant described in the Franchise Agreement, not to directly or indirectly, for itself or through, on behalf of, or in conjunction with any person, partnership or corporation, without the prior written consent of Franchisor, own, maintain, operate, engage in or have any financial or beneficial interest in (including any interest in corporations, partnerships, trusts, unincorporated associations or joint ventures), advise, assist or make loans to, any Competitive Business (as defined in Attachment A of the Franchise Agreement) located within (i) the United States, (ii) United States territories or commonwealths, or (iii) any other country, province, state or geographic area in which Franchisor has used, sought registration of or registered the same or similar Marks or operates or licenses others to operate a business under the same or similar Marks.

2. In further consideration for the disclosure to Covenantor of the Confidential Information and to protect the System, Covenantor agrees and covenants that for two (2) years following the earlier of the expiration or termination (whether as a result of a sale or transfer to Franchisor or otherwise), unless the termination is effected by Franchisee with cause pursuant to Section 17.C of the Agreement or transfer of all of Franchisee's interest in the Franchise Agreement or the termination of his association with or employment by Franchisee, Covenantor will not without the prior written consent of Franchisor:

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\* May be deleted if Franchisor does not require Franchisee to obtain the execution of this covenant by Covenantor. See Section 10.F. of the Franchise Agreement.

a. Divert or attempt to divert, directly or indirectly, any business, business opportunity or customer of the Restaurant to any competitor or Competitive Business (as defined in Attachment A of the Franchise Agreement).

b. Employ, or seek to employ, any person who is at the time or was within the preceding twelve (12) months employed by Franchisor or any Franchisee or developer of Franchisor, or otherwise directly or indirectly induce such persons to leave that person's employment.

c. Directly or indirectly, for himself or through, on behalf of or in conjunction with any person, partnership or corporation, own, maintain, operate, engage in or have any financial or beneficial interest in (including any interest in corporations, partnerships, trusts, unincorporated associations or joint ventures), advise, assist or make loans to, any Competitive Business (as defined in Attachment A of the Franchise Agreement), which business is, or is intended to be located (i) at the Approved Location (as such term is defined in the Franchise Agreement), (ii) within the Assigned Area (as such term is defined in the Franchise Agreement), or (iii) within a 10-mile radius of any Texas Roadhouse Restaurant or other Texas Roadhouse facility in existence or under construction at any given time during such period.

### **Miscellaneous**

1. Covenantor agrees and covenants that during the term and for two (2) years following the earlier of the expiration or termination (whether as a result of a sale or transfer to Franchisor or otherwise), Covenantor will take no action which is intended, or would reasonably be expected, to materially harm the Franchisor, any affiliate of the Franchisor, their respective businesses, officers, directors or employees, harm the reputation of any of the foregoing persons or entities, or which would reasonably be expected to lead to unwanted or unfavorable publicity to any of the foregoing persons or entities.

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

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

4. Covenantor agrees to pay all expenses (including court costs and reasonable attorneys' fees) incurred by Franchisor and Franchisee in enforcing this Agreement. Notwithstanding the foregoing, Franchisor may recover its costs incurred in enforcing this Agreement from Franchisee without the necessity of first making demand upon or bringing an action against Covenantor.

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

**6. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF KENTUCKY, WITHOUT REFERENCE TO KENTUCKY CHOICE OF LAW PRINCIPLES. COVENANTOR HEREBY IRREVOCABLY SUBMITS ITSELF TO THE JURISDICTION OF THE STATE COURTS OF JEFFERSON COUNTY, KENTUCKY AND THE FEDERAL DISTRICT COURTS FOR THE WESTERN DISTRICT OF KENTUCKY. COVENANTOR**

**HEREBY WAIVES ALL QUESTIONS OF PERSONAL JURISDICTION OR VENUE FOR THE PURPOSE OF CARRYING OUT THIS PROVISION. COVENANTOR HEREBY AGREES THAT SERVICE OF PROCESS MAY BE MADE UPON IT IN ANY PROCEEDING RELATING TO OR ARISING UNDER THIS AGREEMENT OR THE RELATIONSHIP CREATED BY THIS AGREEMENT BY ANY MEANS ALLOWED BY KENTUCKY OR FEDERAL LAW. COVENANTOR FURTHER AGREES THAT VENUE FOR ANY PROCEEDING RELATING TO OR ARISING OUT OF THIS AGREEMENT SHALL BE JEFFERSON COUNTY, KENTUCKY; PROVIDED, HOWEVER, WITH RESPECT TO ANY ACTION WHICH INCLUDES INJUNCTIVE RELIEF OR OTHER EXTRAORDINARY RELIEF, FRANCHISOR OR FRANCHISEE MAY BRING SUCH ACTION IN ANY COURT IN ANY STATE WHICH HAS JURISDICTION.**

7. The parties acknowledge and agree that each of the covenants contained herein are reasonable limitations as to time, geographical area, and scope of activity to be restrained and do not impose a greater restraint than is necessary to protect the goodwill or other business interests of Franchisor. The parties agree that each of the foregoing covenants shall be construed as independent of any other covenant or provision of this Agreement. If all or any portion of a covenant in this Agreement is held unreasonable or unenforceable by a court or agency having valid jurisdiction in any unappealed final decision to which Franchisor is a party, Covenantor expressly agrees to be bound by any lesser covenant subsumed within the terms of such covenant that imposes the maximum duty permitted by law, as if the resulting covenant were separately stated in and made a part of this Agreement. The time period relating to the obligations set forth in this Agreement will be tolled for any period of noncompliance.

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

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

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

Texas Roadhouse Development Corporation  
6040 Dutchmans Lane  
Louisville, Kentucky 40205  
Attention: Legal Department  
Facsimile: (502) 426-3274

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

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

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

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

Any notices sent by personal delivery shall be deemed given upon receipt. Any notices given by facsimile or electronic mail shall be deemed given upon transmission, provided confirmation is made as provided above. Any notice sent by expedited delivery service or registered or certified mail shall be deemed given three (3) Business Days after the time of mailing. Any change in the foregoing addresses shall be affected by giving fifteen (15) days written notice of such change to the other parties. Business Day for the purpose of this Agreement means any day other than Saturday, Sunday or national holidays in the U.S.

10. The rights and remedies of Franchisor under this Agreement are fully assignable and transferable and shall inure to the benefit of its respective Affiliates, successors and assigns. The respective obligations of Franchisee and Covenantor hereunder may not be assigned by Franchisee or Covenantor, without the prior written consent of Franchisor.

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

**FRANCHISOR:**

Texas Roadhouse Development Corporation,  
a Kentucky corporation

By: \_\_\_\_\_  
Gerald L. Morgan, President

**FRANCHISEE:**

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

**COVENANTOR\* (including, without limitation,  
all Managing Partners and Market Partners  
executing this Agreement):**

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

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

\_\_\_\_\_  
\* All Managing Partners of the Restaurant who are not otherwise signing the Franchise Agreement as a Controlling Principal must execute this Agreement as a Covenantor.

**EXHIBIT D**

**LIST OF CURRENT FRANCHISEES AND FORMER FRANCHISEES**



**LIST OF CURRENT FRANCHISEES  
AS OF DECEMBER 27, 2022**

<b>California</b>		
Armadillo Holdings, LLC Stephen C. Madinger 8094 Orchard Loop Lane Elk Grove, CA 95624 916-681-0640	Armadillo Holdings, LLC Stephen C. Madinger 32115 Union Landing Blvd. Union City, CA 94587 510-324-7623	Armadillo Holdings, LLC Stephen C. Madinger 2422 Naglee Road Tracy, CA 95304 209-830-1133
Armadillo Holdings, LLC Stephen C. Madinger 3333 N Texas St. Fairfield, CA 94533 707-422-7623	Armadillo Holdings, LLC Stephen C. Madinger 3037 Sisk Road Modesto, CA 95350 209-579-9201	Armadillo Holdings, LLC Stephen C. Madinger 6309 Sunrise Boulevard Citrus Heights, CA 95610 916-726-7623
TXRH Oceanside, LLC Steven L. Ortiz 2725 Vista Way Oceanside, CA 760-607-3535	TXRH Hesperia, LLC Steven L. Ortiz 9601 Mariposa Road Hesperia, CA 92344 760-867-4831	TXRH Rialto, LLC Steven L. Ortiz 980 W Renaissance Parkway Rialto, CA 92376 909-787-7730
<b>Colorado</b>		
Roadhouse of Longmont, LLC Steven L. Ortiz 2301 Clover Basin Drive #2351 Longmont, CO 80503 303-774-1491		
<b>Delaware</b>		
Seaford Ventures, LLC John Altomare 22920 Sussex Highway Seaford, DE 19973 302-629-2071	Middletown Steakhouse, LLC James St. Clair 741 Middletown-Warwick Road Middletown, DE 19709 302-378-5844	
<b>Georgia</b>		
S&G Restaurants, LLC Danny McEldoon 2970 Northlake Pkwy Columbus, GA 31909 706-323-6616	Texas Roadhouse of Hiram, LLC Dr. Amar Desai 140 Depot Drive Hiram, GA 30141 770-439-1919	
Texas Roadhouse of Marietta, LLC Dr. Amar Desai 2475 Barrett Creek Pkwy. NW Marietta, GA 30066 770-429-9019		
<b>Indiana</b>		
Avon Host, LLC Stephen C. Madinger 10340 US Highway 36 East Avon, IN 46123 317-209-9352	Consolidated Roadhouse of Kokomo, LLC Innes T. Mather 5107 Clinton Dr. Kokomo, IN 46902 765-455-1500	Consolidated Roadhouse of Lafayette LLC Innes T. Mather 3615 State Route 38 East Lafayette, IN 47905 765-446-0404

East Indy Host, LLC Stephan C. Madinger 1405 N. Shadeland Avenue Indianapolis, IN 46219 317-356-8081	Hoosier Roadhouse, LLC Stephen C. Madinger 200 W. McGalliard Muncie, IN 47303 765-282-7113	North Indy Host, Inc. Stephen C. Madinger 12950 Publishers Drive Fishers, IN 46038 317-585-5020
Pyramid Host, Inc. Stephen C. Madinger 9111 N. Michigan Road Indianapolis, IN 46268 317-876-5480	Roadhouse Host, LLC. Stephen C. Madinger 2115 Scatterfield Road Anderson, IN 46013 765-649-2637	
<b>Kansas</b>		
Roadhouse of Wichita, LLC Estate of W. Kent Taylor 6707 W. Kellogg St. Wichita, KS 67209 316-943-8722		
<b>Kentucky</b>		
Roadhouse Investments of Ashland, LLC Robert Langley 501 Winchester Ave. Ashland, KY 41101 606-325-5188	Man O'War Restaurants, Inc. Robert Langley 3116 Richmond Road Lexington, KY 40509 859-268-2507	
<b>Louisiana</b>		
Roadhouse of Bossier City, LLC Steven L. Ortiz 1005 A Gould Drive Bossier City, LA 71111 318-746-7122		
<b>Maryland</b>		
Cactus Ventures, LLC James St. Clair 107 E. Cedar Lane Fruitland, MD 21826 410-677-3660	Carroll County Roadhouse, LLC James St. Clair 21 South Cranberry Road Westminster, MD 21157 410-871-1220	Hagerstown Roadhouse, LLC James St. Clair 120 S. Edgewood Dr. Hagerstown, MD 21740 301-739-2200
Texas Roadhouse of Anne Arundel County, Inc. James St. Clair 4465 Mountain Road Pasadena, MD 21122 410-439-0233	Hospitality Steak House, LLC James St. Clair 2428 Bel Air Road Fallston, MD 21047 443-299-6157	Hospitality Steakhouse Baltimore LLC James St. Clair 1736 Merritt Boulevard Baltimore, MD 21222 410-282-2310
<b>Massachusetts</b>		
Texas Roadhouse of Everett, LLC Estate of W. Kent Taylor 31 Mystic View Road Everett, MA 02149 617-381-9598		
<b>Michigan</b>		
Consolidated Roadhouse of Chesterfield, LLC Innes T. Mather (Consolidated) 27150 23 Mile Road Chesterfield, MI 48051 586-598-0989	Consolidated Roadhouse of Taylor, LLC Innes T. Mather (Consolidated) 14660 Pardee Road Taylor, MI 48180 734-374-5500	TRH Westland, LLC Attn: Fahr Juneja 36750 Ford Rd. Westland, MI 48185-3770 (734) 729-4571
<b>Montana</b>		
Texas Roadhouse of Billings, LLC Estate of W. Kent Taylor 1824 King Avenue West Billings, MT 59102 406-651-5885		
<b>North Dakota</b>		

Roadhouse of Fargo, LLC Kim Boerema 4971 13 <sup>th</sup> Avenue South Fargo, ND 58103-7263 701-282-8590		
<b>Ohio</b>		
East Columbus Host, Inc. Stephen C. Madinger 5940 E. Main Street Columbus, OH 43213 614-322-0500		
Bethel Host, Inc. Dave Beers 1540 Bethel Road Columbus, OH 43220 614-457-5322		
<b>Pennsylvania</b>		
Texas Roadhouse Investments of Beaver PA, LLC Robert Langley 115 Wagner Road Monaca, PA 15061 724-775-4800	Texas Roadhouse Investments of Butler PA, LLC Robert Langley 101 Clearview Cr. 520 Butler, PA 16001 724-287-3777	Texas Roadhouse Investments of Greensburg PA, LLC Robert Langley 6228 Route 30 Greensburg, PA 15601 724-850-2500
Texas Roadhouse Investments of Washington, PA, LLC Robert Langley 311 Washington Road Washington, PA 15301 724-222-4900	Roadhouse of Montgomeryville, LLC John Rhodes 115 Garden Golf Blvd. Montgomeryville, PA 19454 215-393-4974	Roadhouse Investments of Bridgeville PA, LLC Robert Langley 1155 Washington Pike, Unit #10 Bridgeville, PA 15017 412-319-7122

<b>Tennessee</b>		
Roadhouse of Memphis, LLC Dr. Amar Desai 2810 New Brunswick Road Memphis, TN 38133 901-382-5992		
<b>Texas</b>		
Roadhouse of McKinney, Ltd Steven L. Ortiz 3101 South Central Expy McKinney, TX 75070 972-547-6688	Roadhouse of Temple, Ltd Steven L. Ortiz 624 N. General Bruce Dr. Temple, TX 76504 254-773-0033	Texas Roadhouse of Brownsville, Ltd G.J. Hart 3400 N. Expressway 77/83 Brownsville, TX 78526 956-554-9900
Roadhouse of Port Arthur Ltd Steven L. Ortiz 8575 Memorial Blvd. Port Arthur, TX 77640 409-722-2246	The Army Morale, Welfare and Recreation Fund Freedom Crossing Lifestyle Center 1613 Pleasonton Road Fort, Bliss, Texas 79906	
<b>Utah</b>		
Roadhouse of Logan, UT, LLC Andy's Investments, Inc. George S. Rich, President 42 East 1400 North Logan, UT 435-753-7740		
<b>Washington</b>		
Army Morale, Welfare and Recreation Fund The Nonappropriated Fund Instrumentality Attention: Len V. Ambrosio 2450 Connell Road Building 2264, 3 <sup>rd</sup> Floor Fort Sam Houston, Texas 210-466-1694		
<b>West Virginia</b>		
Roadhouse Investments of Clarksburg, W.V, Limited Liability Company Robert Langley 290 Emily Drive Clarksburg, WV 26301 304-623-1660	Roadhouse Investments of Morgantown, W.V, LLC Robert Langley 3505 Monogahela Blvd. Star City, WV 26505 304-598-0109	Roadhouse Investments of Huntington WV, LLC Brutus J. Clay 3100 Route 60 Huntington, WV 25705 304-521-4443
<b>Wisconsin</b>		
Appleton Operating, LLC Karen Dunn 3910 W. College Avenue Appleton, WI 54914 920-738-7427	Janesville Operating, LLC Karen Dunn 3201 Deerfield Dr. Janesville, WI 53546 608-757-9700	Sheboygan Operating, LLC Karen Dunn 4304 Gander Rd. Sheboygan, WI 53083 920-457-7427

**LIST OF FORMER FRANCHISEES  
FOR FISCAL YEAR ENDING DECEMBER 27, 2022**

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

Roadhouse of Omaha, LLC  
Rex Boatright  
520 N. 155<sup>th</sup> Plaza  
Omaha, NE 68154  
402-504-4449

TR Operations of Greenville, LLC  
Innes T. Mather  
3140 Wade Hampton Blvd.  
Taylors, SC 29687  
864-244-4122

TR Operations of South Myrtle Beach, L.L.C.  
Innes T. Mather  
3037 Highway 17 Business  
Garden City, SC 29576  
843-357-3245

TR Operations of South Carolina, LLC  
Innes T. Mather  
4119 Clemson Blvd.

TR Ventures of South Carolina, LLC  
Innes T. Mather  
8304 Two Notch Road  
Columbia, SC 29223  
803-788-5384

TR Ventures of South Carolina, LLC  
Innes T. Mather  
400 Columbiana Drive  
Columbia, SC 29212  
803-407-6670

TR Ventures of South Carolina, LLC  
Innes T. Mather  
2160 Melnick Drive  
N. Charleston, SC 29406  
843-569-7556  
Anderson, SC 29621  
864-225-2455

TR Operations of Gainesville, GA, LLC  
Innes T. Mather  
895 Dawsonville Hwy  
Gainesville, GA 30501  
678-450-8447

**EXHIBIT E**

**STATE ADMINISTRATORS**

## **STATE ADMINISTRATORS**

We intend to register this Disclosure Document as a “franchise” in some or all of the following states, in accordance with the applicable state laws. If and when we pursue franchise registration (or otherwise comply with the franchise investment laws) in these states, the following are the state administrators responsible for the review, registration, and oversight of franchises in these states:

### **CALIFORNIA**

Department of Financial Protection and Innovation  
320 West 4<sup>th</sup> Street, Suite 750  
Los Angeles, California 90013  
(213) 576-7500 or (866) 275-2677

### **HAWAII**

Business Registration Division  
Department of Commerce and Consumer Affairs  
335 Merchant Street, Room 201  
Honolulu, Hawaii 96813  
(808) 586-2722

### **ILLINOIS**

Chief, Franchise Division  
Attorney General’s Office  
500 South Second Street  
Springfield, Illinois 62706

### **INDIANA**

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

### **KENTUCKY**

Office of Attorney General  
1024 Capital Center Drive  
Frankfort, Kentucky 40601

### **MARYLAND**

Office of the Attorney General  
Division of Securities  
200 St. Paul Place  
Baltimore, Maryland 21202-2020

### **MICHIGAN**

Michigan Attorney General’s Office  
Consumer Protection Division  
Attn: Franchise Section  
525 West Ottawa Street  
G Mennen Williams Building, 1<sup>st</sup> Floor.  
Lansing, Michigan 48933

**MINNESOTA**

Franchise Examiner  
Minnesota Department of Commerce  
85 7<sup>th</sup> Place East, Suite 280  
St. Paul, Minnesota 55101  
(651) 539-1638

**NEBRASKA**

Nebraska Department of Banking and Finance  
Commerce Court  
1526 K Street  
P.O. Box 95006  
Lincoln, Nebraska 68508

**NEW YORK**

New York Department of Law  
Investor Protection Bureau  
28 Liberty Street  
New York, New York 10005

**NORTH DAKOTA**

Franchise Examiner  
North Dakota Securities Department  
600 East Boulevard, Fifth Floor  
Bismarck, North Dakota 58505

**OREGON**

Director  
Department of Consumer and  
Business Services  
Division of Finance and  
Corporate Securities  
Labor and Industries Building  
Salem, Oregon 97310

**RHODE ISLAND**

Securities Division  
Department of Business Regulation  
1511 Pontiac Avenue  
John O. Pastore Complex, Building 69  
Providence, Rhode Island 02903-4232

**SOUTH DAKOTA**

Franchise Administrator  
South Dakota Department of Labor and Regulation  
Division of Securities  
124 S. Euclid, Suite 104  
Pierre, South Dakota 57501

**TEXAS**

Secretary of State  
Registrations Unit  
P.O. Box 13193  
Austin, Texas 78711-3193



**UTAH**

Department of Commerce  
Division of Consumer Protection  
160 East 300 South  
Salt Lake City, Utah 84114

**VIRGINIA**

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

**WASHINGTON**

Washington State Department of Financial Institutions  
Securities Division  
P.O. Box 9033  
Olympia, WA 98507-9033

**WISCONSIN**

Franchise Administrator  
Wisconsin Department of Financial Institutions  
4822 Madison Yards Way, North Tower  
Madison, Wisconsin 53705

**EXHIBIT F**

**AGENTS FOR SERVICE OF PROCESS**

## **AGENTS FOR SERVICE OF PROCESS**

We intend to register this Disclosure Document as a “franchise” in some or all of the following states, in accordance with the applicable state law. If and when we pursue franchise registration (or otherwise comply with the franchise investment laws) in these states, we will designate the following state offices or officials as our agents for service of process in these states:

### **CALIFORNIA**

Commissioner  
Department of Financial Protection and Innovation  
320 West 4th Street, Suite 750  
Los Angeles, California 90013-2344

### **HAWAII**

Business Registration Division  
Department of Commerce and Consumer Affairs  
335 Merchant Street, Room 201  
Honolulu, Hawaii 96813

### **ILLINOIS**

Illinois Attorney General  
500 South Second Street  
Springfield, Illinois 62701

### **INDIANA**

Indiana Secretary of State  
State House Office  
200 West Washington, Suite 201  
Indianapolis, Indiana 46204

### **KENTUCKY**

Gerald L. Morgan  
6040 Dutchmans Lane  
Louisville, Kentucky 40205

### **MARYLAND**

Maryland Securities Commissioner  
Office of the Attorney General  
200 St. Paul Place, 20th Floor  
Baltimore, Maryland 21202-2020

### **MICHIGAN**

Department of the  
Attorney General’s Office  
Consumer Protection Division  
Attn: Franchise Section  
525 West Ottawa Street  
G Mennen Williams Building, 7th Floor  
Lansing, Michigan 48909

**MINNESOTA**

Commissioner of Commerce  
Minnesota Department of Commerce  
85 7th Place East, Suite 280  
St. Paul, Minnesota 55101

**NEW YORK**

Secretary of State of the State of New York  
41 State Street  
Albany, New York 12231-0001

**NORTH DAKOTA**

Securities Commissioner  
North Dakota Securities Department  
600 East Boulevard, Fifth Floor  
Bismarck, North Dakota 58505-0510

**OREGON**

Director, Dept. of Consumer and  
Business Services  
Division of Finance and  
Corporate Securities  
Labor and Industries Building  
Salem, Oregon 97310

**RHODE ISLAND**

Director, Dept. of Business Regulation  
1511 Pontiac Avenue  
John O. Pastore Complex, Building 69-1  
Cranston, Rhode Island 02920

**SOUTH DAKOTA**

Department of Labor and Regulation  
Division of Securities  
124 S. Euclid, Suite 104  
Pierre, South Dakota 57501

**UTAH**

Department of Commerce  
160 East 300 South  
Salt Lake City, UT 84114-6701

**VIRGINIA**

Clerk of the State  
Corporation Commission  
1300 East Main Street, 1st Floor  
Richmond, Virginia 23219

**WASHINGTON**

Director  
Washington State Department of Financial Institutions  
Securities Division  
P.O. Box 9033  
Olympia, Washington 98507-9033

**WISCONSIN**

Commissioner of Securities

Wisconsin Department of Financial Institutions

4822 Madison Yards Way, North Tower

Madison, Wisconsin 53705

**EXHIBIT G**

**CURRENT SAMPLE FORM OF GENERAL RELEASE**

## FORM OF GENERAL RELEASE

### [Current Form for Transfers and Renewals]

1. **Release of Claims.** Franchisee and its Owners and their respective assigns, heirs, representatives, agents, family members, and all other persons acting on their behalf or claiming under them (collectively referred to as the “Franchisee Related Parties”) irrevocably and unconditionally release and forever discharge Franchisor, its predecessors, subsidiaries, affiliates and their respective owners, officers, directors, agents, independent contractors, servants, employees, representatives, attorneys, successors and assigns and all persons acting by, through, under or in concert with any of them (collectively “Releasees”), from all actions, causes of action, suits, debts, liens, contracts, agreements, obligations, promises, liabilities, claims, rights, demands, damages, controversies, losses, costs, and expenses (including attorneys’ fees and costs actually incurred) of any nature whatsoever, known or unknown, suspected or unsuspected, fixed or contingent, except for claims under the Maryland Franchise Registration and Disclosure Law (“Claim” or “Claims”), which they now have or claim to have or at any time heretofore have had or claimed to have against each or any of the Releasees, including, without limitation, any and all such Claims arising from, based upon or related to the Franchise Agreement, but excluding claims based on any representation that Franchisor made in the most recent Franchise Disclosure Document (including its exhibits and amendments) that Franchisor delivered to Franchisee or its representative in connection with the offer of the Franchise Agreement, subject to agreed-upon changes to the contract terms described in that Franchise Disclosure Document and reflected in the Franchise Agreement (including any riders or addenda signed at the same time as the Franchise Agreement).

**[For California franchisees, add: Each of the Franchisee Related Parties expressly waives and relinquishes all rights and benefits which either may now have or in the future have under and by virtue of California Civil Code Section 1542. The parties do so understanding the significance and consequence of such specific waiver. Section 1542 provides that “[a] general release does not extend to claims which the creditor does not know or suspect exist in his favor at the time of executing the release, which if known by it must have materially affected his settlement with the debtor.” For the purpose of implementing a general release and discharge as described in Section 1. above, the parties expressly acknowledge that this Agreement is intended to include in its effect, without limitation, all claims described in Section 1. above which the parties do not know or suspect to exist in their favor at the time of execution hereof, and that this Agreement contemplates the extinguishment of any such claims.]**

2. **Unknown Claims.**

(a) Franchisee acknowledges for itself and the Franchisee Related Parties that there is a risk that subsequent to the execution of this Agreement, it will discover, incur or suffer Claims which are unknown or unanticipated at the time this Agreement is executed, including, without limitation, unknown or unanticipated Claims which arose from, are based upon or are related to the Franchise Agreement or some part or aspect thereof, which if known by Franchisee on the date this Agreement is being executed may have materially affected its decision to execute this Agreement.

(b) Franchisee acknowledges and agrees for itself and the Franchisee Related Parties that by reason of the release contained in Section 1 above, it is assuming the risk of such unknown and unanticipated Claims and agrees that its release of the Releasees contained in this Agreement applies thereto.

3. **Covenant Not to Sue.** Franchisee covenants and agrees for itself and for the Franchisee Related Parties not to bring or allow to be brought on behalf of itself or any Franchisee Related Party, any action, cause of action, suit or other proceeding of any kind, which has accrued or which may ever accrue, whether based in the Constitution, common law or statute, contract, tort, or in equity, for actual or punitive damages or other relief, against Franchisor and the Releasees arising out of, resulting from, or in any manner related to the matters referenced in Section 1.

4. **No Assignment of Claims.** Franchisee represents and warrants for itself and the Franchisee Related Parties that it has not assigned or transferred, or purported to assign or transfer, to any person or entity, any Claims released

under Section 1 of this Agreement and agrees to indemnify, defend and hold the Releasees harmless from and against any and all Claims, based on or arising out of any such assignment or transfer, or purported assignment or transfer, of any Claims, or any portion thereof or interest therein. Franchisee represents and warrants that since the date of the Franchise Agreement, there has been no assignment or transfer, and no purported assignment or transfer, to any person or entity of the Franchise, the Franchise Agreement, or any rights or interests therein or in the Franchisee.

5. **Full and Independent Knowledge.** Franchisee represents that it has been represented by an attorney in connection with the preparation and review of this Agreement, that it has specifically discussed with its attorney the meaning and effect of this Agreement and that it has carefully read and understands the scope and effect of each provision contained herein. Franchisee further represents that it does not rely and has not relied upon any representation or statement made by the Franchisor or, any of the Releasees or any of their representatives with regard to the subject matter, basis or effect of this Agreement.

6. **Compromise.** Franchisee agrees for itself and the Franchisee Related Parties that the releases contained herein are the result of a compromise and shall never at any time for any purpose be considered as an admission of liability or responsibility on the part of Franchisor or the Releasees regarding any matter.

7. **General Provisions.**

- (a) **Entire Agreement.** This Agreement, when fully executed, supersedes all previous negotiations, representations, and discussions by the parties hereto concerning the subject matter hereof and integrates the whole of all of their agreements and understandings concerning the subject matter hereof. No oral representations or undertakings concerning the subject matter hereof shall operate to amend, supersede, or replace any of the terms or conditions set forth herein.
- (b) **Authority.** By their signatures below, the parties hereto represent and warrant to each other that they have all necessary authority to enter into this Agreement. Each party hereto represents and warrants that the party is entering into this Agreement solely for the purposes and consideration set forth herein.
- (c) **Counterpart Execution.** This Agreement may be executed in multiple counterparts, each of which shall be fully effective as an original.
- (d) **Survival.** All covenants, representations, warranties, and agreements of the parties shall survive execution and delivery of this Agreement and shall continue until such time as all the obligations of the parties hereto shall have lapsed in accordance with their respective terms or shall have been discharged in full.
- (e) **Further Assurance.** The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the intent of this Agreement.
- (f) **Complete Defense.** Franchisee acknowledges that this Agreement shall be a complete defense to any claim released under the terms of Section 1 of this Agreement and hereby consents to the entry of a temporary or permanent injunction to end the assertion of any such claim.
- (g) **Attorneys' Fees.** In the event that Franchisor institutes legal proceedings of any kind to enforce this Agreement, Franchisee agrees to pay all costs and expenses associated therewith, including, but not limited to, all attorneys' fees.



IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed by its duly authorized representative as of the date indicated below.

**FRANCHISOR:**

Texas Roadhouse Development Corporation,  
a Kentucky Corporation

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

**FRANCHISEE:**

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

**OWNERS:**

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

[See Additional Note:

1. Add signature blocks for any additional parties identified pursuant to Section 1]

**New York Insert**

This Franchise Disclosure Document is amended by the addition of the following sentence:

Franchisor represents that this prospectus does not knowingly omit any material fact or contain any untrue statement of a material fact.

**EXHIBIT H**

**RECEIPTS**

**RECEIPT**

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

If Texas Roadhouse Development 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 a payment to, the franchisor or an affiliate in connection with the proposed franchise sale, or sooner if required by applicable state law. Applicable state laws in (a) Connecticut and Michigan require us to provide you the disclosure document at least 10 business days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale, (b) Maine, New York and Rhode Island require us to provide you the disclosure document at the earlier of the first personal meeting or 10 business days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale, and (c) Iowa requires us to provide you the disclosure document at the earlier of the first personal meeting or 14 days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale.

If Texas Roadhouse Development 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 and state law which may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20590 or the appropriate state agency listed in Exhibit E.

The name and address of our registered agents authorized to receive service of process is shown in Exhibit The name, principal business address, and telephone number of each franchise seller offering the franchise follow:

Name	Principal Business Address	Telephone Number
Gerald L. Morgan	6040 Dutchmans Lane Louisville, Kentucky 40205	(502) 426-9984

Issuance Date: March 31, 2023

I have received a Franchise Disclosure Document dated March 31, 2023. See State registration effective dates on the State Registrations page. This Disclosure Document includes the following Exhibits:

**STATE APPENDIX TO DISCLOSURE DOCUMENT**

- |   |  |
|---|--|
| Exhibit A FINANCIAL STATEMENTS                                | Exhibit E STATE ADMINISTRATORS                   |
| Exhibit B FRANCHISE AGREEMENT and applicable state amendments | Exhibit F AGENTS FOR SERVICE OF PROCESS          |
| Exhibit C CONFIDENTIALITY AGREEMENT                           | Exhibit G CURRENT SAMPLE FORM OF GENERAL RELEASE |
| Exhibit D LIST OF CURRENT AND FORMER FRANCHISEES              | Exhibit H RECEIPTS                               |

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

\_\_\_\_\_  
Individually and as an Officer of the company designated below or of a company to be formed and designated below on formation

\_\_\_\_\_  
Printed Name

of \_\_\_\_\_  
(a \_\_\_\_\_ Corporation)  
(a \_\_\_\_\_ Partnership)  
(a \_\_\_\_\_ Limited Liability Company)

**[Keep this page for your records]**

**RECEIPT**

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

If Texas Roadhouse Development 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 a payment to, the franchisor or an affiliate in connection with the proposed franchise sale, or sooner if required by applicable state law. Applicable state laws in (a) Connecticut and Michigan require us to provide you the disclosure document at least 10 business days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale, (b) Maine, New York and Rhode Island require us to provide you the disclosure document at the earlier of the first personal meeting or 10 business days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale, and (c) Iowa requires us to provide you the disclosure document at the earlier of the first personal meeting or 14 days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale.

If Texas Roadhouse Development 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 and state law which may have occurred and should be reported to the Federal Trade Commission, Washington, D.C. 20590 or the appropriate state agency listed in Exhibit E.

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| Exhibit D LIST OF CURRENT AND FORMER FRANCHISEES              | Exhibit H RECEIPTS                               |

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

\_\_\_\_\_  
Individually and as an Officer of the company designated below or of a company to be formed and designated below on formation

\_\_\_\_\_  
Printed Name

of \_\_\_\_\_  
(a \_\_\_\_\_ Corporation)  
(a \_\_\_\_\_ Partnership)  
(a \_\_\_\_\_ Limited Liability Company)